

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 UNITED STATES OF AMERICA)
5 VS) No. 3:22-mj-4149
6 JUSTIS JOHNSON)

8 BEFORE THE HONORABLE JEFFERY S. FRENSLEY,
9 MAGISTRATE JUDGE

10 **TRANSCRIPT OF ELECTRONIC RECORDING**

11 (via video conference)

12 April 20, 2022

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Defense witness

BIANE MCGEE

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Government witness

TOM EVANS

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1
2 The above-styled cause came to be heard
3 on April 20, 2022, before the Hon. Jeffery S.
4 Frensley, Magistrate Judge, when the following
5 proceedings were had to-wit:

6 **TRANSCRIPT OF ELECTRONIC RECORDING**

7 ***

8
9 THE COURT: Good morning, welcome
09:09:56:17 10 everyone. We're here in the matter of *United States*
11 *of America versus Justis Johnson*. It's Case
12 No. 3:22-mj-4149 here in this district. This is an
13 out-of-district matter arising out of the Eastern
14 District of Tennessee. The case number in that court
09:10:12:27 15 is No. 3:22-cr-32. Mr. Johnson is present appearing
16 this morning by video conference, along with her
17 attorney, Luke Evans. And Ms. Morrison's here for the
18 United States. Mr. Murphy is on for Pretrial
19 Services.

09:10:32:14 20 We had set the matter this morning for a
21 detention hearing. And before we get started,
22 Mr. Evans, have you had a chance to speak with your
23 client and does she consent to proceed today by video
24 conference?

09:10:46:10 25 MR. EVANS: Your Honor, I've had an

09:10:47:13

1 opportunity to speak with my client. She does
2 consent.

3 THE COURT: All right, very good. Thank
4 you very much. Thank you, Ms. Johnson.

09:10:55:15

5 The Court is in receipt of the Pretrial
6 Services Report, which I've reviewed. I assume you've
7 each received a copy of it as well and you-all can
8 keep your report at the completion of the proceedings
9 today.

09:11:08:05

10 Ms. Morrison, are there any
11 announcements? Is the government ready to go forward
12 at this time?

13 MS. MORRISON: Yes, Your Honor, we are.

14 THE COURT: All right, very good.

09:11:15:06

15 Mr. Evans, are you ready to go forward?

16 MR. EVANS: Yes, Your Honor.

17 THE COURT: All right. Ms. Morrison,
18 I'll hear from the government first.

09:11:24:16

19 MS. MORRISON: Your Honor, if the Court's
20 so inclined, since the defendant has been indicted, it
21 would be our position that the presumption operates
22 and at this point it's incumbent upon the defendant to
23 rebut the presumption.

24 THE COURT: All right, very good.

09:11:36:00

25 Mr. Evans, I'll let you put on whatever proof you

09:11:40:07

1 want.

09:11:49:22

2 MR. EVANS: Yes, Your Honor. As
3 previously noticed in our email to opposing counsel
4 and to the Court, I'll be calling Ms. Biane McGee as
5 the defense's witness.

09:12:07:17

6 THE COURT: All right.

7 MR. EVANS: And with the Court's
8 indulgence, I only have access to the one computer
9 with camera, so I'll be off camera while Ms. McGee
10 testifies, if that's okay with the Court.

11 THE COURT: Certainly, Mr. Evans, that's
12 fine. Ms. McGee, let me go ahead and swear you. If
13 you'd raise your right hand, please.

14 **BIANE MCGEE**

09:13:46:15

15 called as a witness, after having been first duly
16 sworn, testified as follows:

17 THE COURT: All right, very good. You
18 can put your hand down. Would you please state and
19 spell your name for the record.

09:13:55:29

20 THE WITNESS: Yes. It's Biane McGee,
21 B-i-a-n-e, M-c-g-e-e.

22 THE COURT: All right, very good.
23 Mr. Evans, you may ask.

24 MR. EVANS: Thank you, Your Honor.

25

DIRECT EXAMINATION

BY MR. EVANS:

Q. Ms. McGee, where do you currently reside?

A. In Smyrna, Tennessee.

Q. And how long have you resided in Smyrna?

A. Nine years.

Q. And what's your address?

A. 101 Batey Court, Smyrna, Tennessee.

Q. And who all lives in that residence with you currently?

A. Just myself and my husband.

Q. And how long have you been married?

A. 35 years.

Q. And can you describe for the Court the layout of your home?

A. Yes. It's a two-story Cape Cod style home. There's four bedrooms. It's 3800 square feet.

Q. And what do you do for a living?

A. I own a property preservation company. I manage foreclosed properties for banks and investors.

Q. And how long have you been so employed?

A. 15 years.

Q. And does your husband work?

A. Yes, he does.

Q. And what does he do?

09:15:18:23

1

A. He's a machinist at Ashley Furniture.

2

3

Q. And how long has he been employed in that job?

4

09:15:28:26

5

A. He's been there four years. He had retired from Gibson Guitar after 30 years.

6

7

8

Q. Now, as part of your employment, Ms. McGee, do you work at the home or from home or do you go to an office?

9

A. I work from home.

09:15:45:02

10

Q. And is that consistent on a weekly basis?

11

A. Yes.

12

Q. Now, how do you know Justis Johnson?

13

A. She's my niece, my sister's daughter.

14

Q. And how long have you known her?

09:15:59:07

15

A. Her entire life.

16

Q. And how old is Justis?

17

A. 36.

18

19

Q. All right. How would you describe your relationship with Justis Johnson?

09:16:07:27

20

A. I feel like we have a really close

21

relationship. We spend a lot of time together.

22

23

Q. And at the time of Ms. Johnson's arrest on this case, where was she living?

24

A. Knoxville.

09:16:24:05

25

Q. No, at the time of her arrest. Last

09:16:26:01

1 week.

2 A. Oh, I'm sorry. She was living at a condo
3 I own in Murfreesboro. It's 1016 Shaman Crossing.

4 Q. You said that's a condo that you own?

09:16:38:08

5 A. Yes.

6 Q. Is that something you were renting to
7 her?

8 A. Yes.

9 Q. Now, if she were to be released, would
09:16:45:19 10 she be allowed to go back to that condo if the Court
11 were to allow her?

12 A. Yes.

13 Q. And you would be willing to continue to
14 rent that condo to her?

09:16:54:00

15 A. Yes, I would.

16 Q. Okay. How long had she been living at
17 that condo?

18 A. Since October.

19 Q. Now, what's the layout of that condo?

09:17:08:03

20 A. It's a two-story condo, three bedrooms.
21 Bedrooms are all upstairs, two bathrooms upstairs,
22 living room, kitchen and half bath downstairs.

23 Q. And was anyone living there with her?

24 A. No.

09:17:28:09

25 Q. Now, to your knowledge was Ms. Johnson

09:17:33:04

1 working at the time she was arrested last week?

2 A. Yes.

3 Q. Where was she working?

4 A. At First Call.

09:17:38:07

5 Q. And do you know what First Call is?

6 A. It's a restoration company, insurance
7 company. I'm not exactly sure the -- of the actual
8 name, but she works as a public adjuster.

09:17:56:16

9 Q. And do you -- do you know what her job
10 responsibilities were in that role?

11 A. Yes. She takes files from clients who
12 has either had a fire, some type of property damage,
13 and her company assists the client with going up
14 against the insurance companies that are not willing
15 to pay for the damages to the home.

09:18:16:09

16 Q. And did she work from home or from an
17 office or both?

18 A. Both.

09:18:30:09

19 Q. Did her job in that role require her to
20 use a laptop computer?

21 A. Yes.

22 Q. And did it require access to Internet?

23 A. Yes.

09:18:44:21

24 Q. Have you always known Ms. Johnson to
25 work?

09:18:45:08

1 A. Yes.

2 Q. Prior to her working for First Call, do
3 you know where she worked at that time?

09:18:53:11

4 A. I believe it was Serve Pro or Service
5 Pro.

6 Q. Okay. And do you know approximately how
7 long she held that position?

8 A. I believe she was there for five years,
9 I'm not exactly sure, maybe a little longer.

09:19:03:26

10 Q. And where is Serve Pro located?

11 A. Knoxville, Tennessee.

12 Q. And so that brings me to my next
13 question. Prior to Ms. Johnson living in your condo
14 here in the Middle District, where did she reside
15 before that?

09:19:16:20

16 A. She owned a home on Powell -- I'm sorry,
17 Cedar Lane in Knoxville. I think it's Powell.

18 Q. Does she still own that home as far as
19 you know?

09:19:30:28

20 A. She does.

21 Q. And how long did she live at that home on
22 Cedar Lane in Knoxville?

23 A. Approximately three years.

24 Q. And does Ms. Johnson have children?

09:19:45:11

25 A. Yes, she does.

09:19:46:14

1

Q. How many children does she have?

2

A. Three.

3

Q. And do you know their approximate ages?

4

A. Yes. Her oldest daughter is Adelyn is

09:19:54:16

5

14. Her son Axle is eight and her daughter Monroe is
6 seven.

7

Q. Do you remember there coming a time back
8 around January of 2021 wherein her children were
9 removed from her custody?

09:20:11:03

10

A. Yes, I do.

11

Q. All right. And as far as you know, is

12

there a pending juvenile court matter in Knox County,
13 Tennessee related to the custody of those children?

14

A. Yes.

09:20:24:14

15

Q. Since January of 2021, has Ms. Johnson
16 had custody of her three children?

17

A. No.

18

Q. And who particularly has had custody of
19 them?

09:20:40:14

20

A. Each person or?

21

Q. Yes, so the two younger children.

22

A. All right. The two younger children are
23 with their father, Jeremy Buchanan.

24

Q. Okay. And the older child?

09:20:54:13

25

A. She's currently with her father, Robert

09:20:57:16

1 Nicholson.

2 Q. And has Ms. Johnson been allowed contact
3 with those children since January of 2021?

4 A. Yes, she has.

09:21:11:17

5 Q. And do you know whether or not that
6 contact is supervised or not?

7 A. It is supervised.

8 Q. And is it supervised with all three
9 children?

09:21:19:09

10 A. Yes, it is.

11 Q. And is that pursuant to an order from the
12 Knox County Juvenile Court?

13 A. Yes.

14 Q. And is that supervision required by that
15 order from the Knox County Juvenile Court?

16 A. Yes.

17 Q. Now, as to the two younger children,
18 Ms. Johnson's contact, is it in-person --

19 A. Yes.

09:21:46:01

20 Q. -- visits?

21 A. Yes.

22 Q. Okay. But supervised?

23 A. Yes.

24 Q. Now, as to the oldest child, her

09:21:52:06

25 daughter, at this point in time, is she only allowed

09:21:56:23 1 Zoom visitation with that oldest child?

2 A. Yes, she is.

3 Q. So no in-person contact; correct?

4 A. Correct.

09:22:08:28 5 Q. Have you also taken steps to reach out

6 and gather character, reference letters in relation to

7 Ms. Johnson?

8 A. Yes, I have.

9 Q. And did you receive a letter from Michael

09:22:25:22 10 Julian?

11 A. Yes, I did.

12 Q. And a letter from Joe McGee?

13 A. Yes, I did.

14 Q. And a letter from Kim Swarthout?

09:22:45:00 15 A. Yes, I did.

16 Q. A letter from Selena Kuebler?

17 A. Yes, I did.

18 Q. A letter from Emma Peden?

19 A. Yes, I did.

09:23:07:12 20 Q. A letter from Jessica Bissel?

21 A. Yes.

22 Q. Did you also draft a letter yourself?

23 A. Yes, I did.

24 Q. And did you reach out and speak with

09:23:29:14 25 someone named Logan Izzo?

09:23:37:15

1 A. Yes, I did.

2 MR. EVANS: Your Honor, I previously
3 submitted a collective exhibit to the Court in
4 preparation for today. It was entitled character

09:23:48:03

5 reference letters. At this point in time I would
6 proffer those to the Court as the defendant's first
7 exhibit.

8 THE COURT: All right, very good.

9 Ms. Morrison, you've seen these?

09:23:59:08

10 MS. MORRISON: I have, Your Honor. And I
11 have no objection.

12 THE COURT: They'll be admitted.

13 (Defense Exhibit No. 1 was admitted.)

14 BY MR. EVANS:

09:24:09:03

15 Q. Now, to your knowledge, does Ms. Johnson
16 currently have a valid US passport?

17 A. Not to my knowledge, no.

18 Q. And we talked a little bit about
19 Ms. Johnson able to remain in -- potentially remain in
20 the condo that you own. Would you also be willing to
21 allow her to live in your home?

09:24:29:12

22 A. Yes, I would.

23 Q. Now, prior to today's hearing, did you
24 and I have a conversation about a concept called
09:24:40:21 25 third-party custodian?

09:24:41:09

1 A. Yes, we did.

2 Q. And can you tell me, kind of, you know,
3 in your own words what that -- what that meant to you.
4 What does it mean to be a third-party custodian?

09:24:57:12

5 A. To supervise Justis, to make sure that
6 she's where she's supposed to be when she's supposed
7 to be there, make sure she appears at all court
8 hearings. And that if she is out of line, if I don't
9 know where she is or if I feel that she's trying to
10 flee, for whatever reason, I would contact you and the
11 police department.

09:25:21:16

12 Q. Okay. And even though she's your niece
13 and you love her dearly, are you willing to take on
14 that obligation?

09:25:36:09

15 A. Yes, I am.

16 Q. Even if it means that if she violated a
17 rule that she would go back to jail or get punished?

18 A. Yes.

19 Q. And do you take that obligation
20 seriously?

09:25:47:00

21 A. Yes, I do.

22 Q. Would you ever violate that obligation,
23 even just to benefit Ms. Johnson?

24 A. No.

09:26:01:29

25 Q. In preparation for today's hearing, did

09:26:05:02

1 you execute something called a Declaration of
2 Third-party Custodian?

3 A. Yes, I did.

09:26:16:09

4 Q. And in that declaration -- let me ask you
5 this: Did you sign it at the back?

6 A. Yes, I did.

7 Q. And is everything in that declaration
8 true and correct to the best of your knowledge?

9 A. Yes.

09:26:25:12

10 MR. EVANS: Your Honor, I would submit
11 her third-party custodian declaration as the
12 defendant's next exhibit.

13 THE COURT: All right. Ms. Morrison,
14 you've received that?

09:26:36:06

15 MS. MORRISON: I have, Your Honor, and I
16 have no objection.

17 THE COURT: It will be admitted as No. 2.
18 (Defense Exhibit No. 2 was admitted.)

19 BY MR. EVANS:

09:26:42:06

20 Q. Now, one thing I do want to address and
21 we talked about this morning, the Pretrial Services
22 Report, as you and I discussed, noted a background
23 check of you that revealed a prior arrest in 1985 for
24 larceny and a prior arrest in '86 for fraudulent
09:27:06:14 25 activities out of the state of Michigan. We talked

09:27:09:20

1 about that this morning?

2 A. Yes, we did.

3 Q. All right. Have you ever been arrested
4 for larceny?

09:27:17:08

5 A. No.

6 Q. Have you ever been arrested for
7 fraudulent activities?

8 A. I'm not sure what that is, but no.

09:27:32:18

9 Q. As part of what you do in your role with
10 the foreclosed houses, are you required to submit to
11 frequent background checks in order to work closely
12 with investors and the banks?

13 A. Yes.

14 Q. And has that been done routinely --

09:27:47:15

15 A. Yes.

16 Q. -- over the years you've been in that
17 employment?

18 A. Once a year.

09:27:52:09

19 Q. Okay. And have you been able to see
20 those background checks when they come through?

21 A. I've not actually been able to see them.

09:28:07:27

22 Q. All right. Have you ever been given any
23 indication from those background checks that there's
24 been any prior -- any flag on your background check
25 for any prior arrest whatsoever?

09:28:10:06

1 A. No, I have not. And I can tell you that
2 the subcontractors that I use, they also have to
3 submit a background check, and if there's any type of
4 larceny or -- any type of criminal activity, they're
5 not allowed to proceed.

09:28:25:09

6 Q. Now, I'm not asking you to explain how
7 this would have come about on your background check,
8 but, again, just to be clear, regardless of whether or
9 not this came up, you've never been arrested for those
10 two charges?

09:28:44:28

11 A. No.

12 Q. From your perspective this has to be some
13 sort of mistake?

14 A. Yes.

09:28:53:04

15 Q. Now, if the Court were to release
16 Ms. Johnson, there would almost assuredly be a number
17 of conditions that would be attached to that release.
18 Are you in a position where if the Court gave you
19 those conditions of release, you would be able to hear
20 them, understand them and make sure that Ms. Johnson
21 follows those conditions?

09:29:12:08

22 A. Yes.

23 Q. From what you know of Ms. Johnson, has
24 she been aware of this criminal investigation against
25 her out of the Eastern District since approximately

09:29:38:22

09:29:42:10

1 January 13 of 2021?

2 A. Yes, she has.

3 Q. All right. And as it relates to the DCS
4 matter, has there been numerous court appearances in
5 the Knox County Juvenile Court?

09:29:54:05

6 A. Yes, there has been.

7 Q. And has Ms. Johnson appeared for all of
8 them?

9 A. Yes, she has.

09:30:02:02

10 Q. And even though she knew about this
11 criminal investigation since that time, has she made
12 any attempt whatsoever since January 13 of 2021 to
13 flee either the Eastern District of Tennessee or the
14 Middle District of Tennessee?

09:30:20:08

15 A. No, she has not.

16 Q. And do you have any reason to believe
17 right now that if she were to be released that she
18 would flee?

19 A. No.

09:30:34:24

20 Q. And from what you know of her current
21 employer, is it your understanding that she would be
22 able to keep that employment if she were to be
23 released today?

24 A. That's my understanding, yes.

09:30:49:24

25 Q. If for some reason the judge were to

09:30:52:27 1 order that she could not have any access to the
2 Internet and that wouldn't be allowed as far as that
3 current employment, are you aware of any other
4 potential job opportunities for her that would not
09:31:05:07 5 require access to the Internet?
6 A. No, not at the moment, but I'm sure
7 there's several that wouldn't require Internet access.
8 Q. And would you be able to help her explore
9 those potential opportunities --
09:31:22:26 10 A. Yes.
11 Q. -- to seek out employment?
12 A. Yes.
13 Q. And have you talked to your husband about
14 the proposition of Ms. Johnson potentially moving into
09:31:33:19 15 your home?
16 A. Yes, I have.
17 Q. And is -- understanding what's -- would
18 be required of you, is he okay with that?
19 A. Yes, he is.
09:31:42:14 20 Q. Okay.
21 MR. EVANS: One moment, Your Honor.
22 THE COURT: Take your time.
23 MR. EVANS: Those are my questions.
24 THE COURT: Ms. Morrison,
09:39:12:20 25 cross-examination.

09:39:14:04

1

MS. MORRISON: Thank you, Your Honor.

2

CROSS-EXAMINATION

3

BY MS. MORRISON:

4

09:39:17:25

5

Q. Ms. McGee, how many devices with Internet access are there in your home currently?

6

7

8

A. Two computers and then -- I mean, we have, like, the TV. I don't know if that's Internet access, but. And then our cell phone.

9

09:39:35:20

10

11

12

13

14

09:39:55:21

15

16

17

18

Q. Okay. So you and your husband each have a cell phone. If the Court orders that you cannot have any -- first orders that your niece can be released to your custody and is required to live at your home and the Court further orders that there cannot be any devices with Internet access, will you still be able to do your job if you cannot have a device with Internet access at your home?

19

09:40:10:20

20

21

22

A. It would make it difficult, but I could go elsewhere, I guess, to work.

23

24

09:40:30:17

25

Q. What about your husband? Does he -- I know you said he doesn't work at home, but does any part of his job require him to have access to a device with Internet access?

A. Well, we own several rental properties, so we both kind of manage those. (indiscernible), again, like I said, we could go somewhere else to do

09:40:34:00

1 that, if needed.

2 Q. Do you have any minors that visit your
3 home?

4 A. No.

09:40:39:07

5 Q. Are there any minors that live in your
6 neighborhood?

7 A. I believe so, yes.

8 Q. How close, if you know?

09:40:59:28

9 A. Well, I live on a court, and we have two
10 and a half acres. And they're kind of, like, across
11 the street I guess you would say. Like, it's a
12 circle.

13 Q. Okay. Now, is your house that you live
14 in in proximity to any schools?

09:41:19:27

15 A. We are approximately two miles from
16 school.

17 Q. What about any day cares?

18 A. No.

19 Q. What about any parks?

09:41:30:09

20 A. No, the park -- well, there's a park
21 that's maybe four miles away.

22 Q. What about any shopping centers?

23 A. No.

09:41:40:23

24 Q. Any other areas where minors typically
25 congregate?

09:41:41:25

1 A. No.

2 Q. Now, if the Court ordered that your niece
3 could be released to your custody and was required to
4 live at your home, would you be willing to disconnect
5 all of your devices with Internet access or remove
6 them from the home?

09:41:52:02

7 A. If necessary, yes.

8 Q. Now, how far is the property where your
9 niece is living from where you currently live?

09:42:07:12

10 A. Six miles.

11 Q. Okay. And I think you indicated in your
12 third-party custodian declaration that you see her
13 three times a week; is that accurate?

14 A. At least three times a week. I see her
15 quite often, as often as we can.

09:42:20:24

16 Q. Do you still have a key to that property,
17 even though she's living there now?

18 A. I do.

19 Q. Okay. Do you know how many devices she
20 has with Internet access at that residence?

09:42:30:26

21 A. Well, I believe she has her personal
22 computer and her work computer. And work phone and a
23 personal phone.

24 Q. And based on your prior testimony, it
25 sounds like she needs Internet access to do the work

09:42:47:15

09:42:51:20

1 that she's doing?

2 A. Yes, she does.

3 Q. At the home where your niece is living,
4 are there any minors that live in that area?

09:43:02:02

5 A. I don't know.

6 Q. Are there any schools in proximity to
7 that location?

8 A. There's a school -- I'm not exactly sure.
9 It's like three -- maybe three miles away, maybe four.

09:43:18:15

10 It's -- I don't know for sure, but it's not on top of
11 her.

12 Q. What about the nearest park? Is there a
13 park in that area?

14 A. No.

09:43:30:03

15 Q. What about any day cares?

16 A. Not that I'm aware of.

17 Q. What about any shopping malls?

18 A. There's no shopping malls, but there's,
19 like, restaurants, like fast food restaurants near
20 there.

09:43:42:13

21 Q. Now, you indicated that you see the
22 defendant at least three times a week. When was the
23 last time you were at the residence that you're
24 renting to her?

09:43:56:29

25 A. On -- it was the day before Good Friday.

09:44:00:05

1 I don't know what the date was. It was the day before
2 she was arrested.

3 Q. Okay. And prior to that, when was the
4 last time you had been there, if you know?

09:44:11:00

5 A. Maybe like a week before. Like, she'll
6 cook dinner, I'll cook dinner. So we do that, like,
7 quite often.

8 Q. Okay.

09:44:21:06

9 MS. MORRISON: I don't have any further
10 questions. Thank you, ma'am.

11 THE COURT: Any redirect, Mr. Evans?

12 MR. EVANS: Yes, Judge.

13 **REDIRECT EXAMINATION**

14 BY MR. EVANS:

09:44:27:11

15 Q. Ms. McGee, you were asked about the
16 Internet devices in your home. I believe you
17 testified there was two cell phones and two computers?

18 A. Yes.

19 Q. Are those cell phones password protected?

09:44:41:28

20 A. Yes.

21 Q. And as of right now, does Ms. Johnson
22 have access to the passwords to those devices?

23 A. No, she does not.

24 Q. Are those two computers password

09:44:56:06

25 protected?

09:44:58:01

1 A. One is.

2 Q. All right. The one that currently is
3 password protected, did Ms. Johnson have the passwords
4 to those computers?

09:45:07:21

5 A. No.

6 Q. Or that computer?

7 A. Huh-uh (negative).

8 Q. And the other computer that you said
9 isn't, can it be password protected?

09:45:14:09

10 A. Yes, it can.

11 Q. And if the Court were to release her into
12 your custody and there was a condition that those
13 computers had to be password protected such that
14 Ms. Johnson could not utilize them in any way, would
15 you be willing to password protect the third -- the
16 fourth device, rather?

09:45:29:18

17 A. Yes.

18 Q. And would you likewise be willing to
19 ensure that she not have -- ever have access to any of
20 the Internet devices?

09:45:43:02

21 A. Yes.

22 Q. And if she were to access an Internet
23 device and you knew about it, would you be willing to
24 report her to the United States Probation?

09:45:56:01

25 A. (indiscernible).

09:45:59:26

1 Q. That was, I'm sorry, yes?

2 A. Yes.

09:46:12:16

3 Q. And if the Court were to release her to
4 the condominium that she'd been living in previously,
5 regardless of how often you interacted with her prior
6 to this case, would you make those visits to that
7 location more frequently if it were required of you?

8 A. Yes, I could. And I could also control
9 the access to the Internet.

09:46:26:19

10 Q. Okay. When you say control the access,
11 you would be able to make sure she did not have
12 Internet access at that location?

13 A. Yes, correct.

09:46:39:24

14 Q. And just to make sure I covered this, I
15 don't think I asked you this before, do you have any
16 issue whatsoever with probation, Pretrial Services,
17 making a visit to your home?

18 A. No.

09:46:49:26

19 Q. Or any issue whatsoever with anyone from
20 United States Probation, Pretrial Services from making
21 a visit to the condo?

22 A. No, I do not.

23 MR. EVANS: Those are my questions.

24 THE COURT: All right. Thank you,

09:47:03:20

25 Ms. McGee. Appreciate your testimony.

09:47:05:27

1

*****WITNESS EXCUSED*****

2

3

THE COURT: Mr. Evans, do you have any other proof you want to put on?

4

MR. EVANS: No, Your Honor.

09:47:09:25

5

THE COURT: All right. Very good.

6

7

8

9

The Court finds that through the testimony of Ms. McGee that the defendant has satisfied the relatively low burden of producing evidence to rebut the presumption in this case. The Court will nonetheless, of course, give appropriate consideration and weight to the presumption at the appropriate time, but I'll make that finding now.

09:47:31:00

10

11

12

13

14

Ms. Morrison, do you have any proof you want to put on?

09:47:42:16

15

16

17

MS. MORRISON: Yes, Your Honor. At this time the United States would call Investigator Tom Evans.

18

19

THE COURT: All right. Mr. Evans, let me swear you.

09:47:50:26

20

21

22

TOM EVANS

called as a witness, after having been first duly sworn, testified as follows:

23

24

THE COURT: All right, very good. Thank you. If you'd state your name, please.

09:48:01:07

25

THE WITNESS: Thomas Evans.

09:48:02:05 1 THE COURT: All right. Ms. Morrison, you
2 may ask.

3 **DIRECT EXAMINATION**

4 BY MS. MORRISON:

09:48:04:24 5 Q. Investigator Evans, where are you
6 currently employed?

7 A. Knoxville Police Department.

8 Q. In what capacity are you employed by the
9 Knoxville Police Department?

09:48:12:20 10 A. I'm the investigator in the Internet
11 Crimes Against Children Task Force.

12 Q. How long have you been employed in that
13 capacity?

14 A. I've been with the KPD 26 years, in
09:48:24:01 15 Internet Crimes Against Children Unit for 22 years,
16 assigned to Homeland Security Investigations Task
17 Force for the past three years.

18 Q. Are you familiar with Justis Johnson?

19 A. Yes, ma'am, I am.

09:48:39:17 20 Q. Are you able to see her on the screen
21 today?

22 A. Yes.

23 Q. Can you describe what she's wearing?

24 A. Looks like a blue shirt, her hair's up,
09:48:55:28 25 in a cell.

09:48:56:27 1 Q. Could you describe how you're familiar
2 with the defendant?

3 A. She became the subject of an
4 investigation for the production and distribution of
09:49:07:11 5 child pornography. We executed a search warrant at
6 her residence here in Knoxville back in January of
7 2021 and have identified her as the individual
8 responsible for the production and distribution of a
9 minor victim.

09:49:27:03 10 Q. Now, could you describe how you
11 identified her as the individual who produced the
12 images in question?

13 A. Yes, ma'am. So my unit received
14 information from Homeland Security in Chicago.
09:49:43:13 15 Chicago Homeland Security Investigations Unit came by
16 information from a dark web called Public PedoPub.
17 This dark website catered to individuals who had
18 interest in sexually abusing and exploiting children.
19 That's what it was predicated on.

09:50:05:17 20 HSI Chicago was able to identify an
21 image -- two images of the same minor, but one
22 particular image that had EXIF data or GPS coordinates
23 associated with that image. Through their
24 investigation, they identified the GPS coordinates and
09:50:29:17 25 linked that to an address in Powell, Tennessee. They

09:50:35:29 1 did -- they did some research on the address and found
2 that Justis Johnson and a Brandon Cavanaugh were
3 associated with residing at that address. They passed
4 that information along to HSI Knoxville and my
09:50:52:15 5 particular unit, and we worked together in identifying
6 the victim in this particular case.

7 We did some online searches, found a
8 Facebook page of Ms. Johnson's, I believe it was
9 Ms. Johnson or Brandon Cavanaugh. There was a picture
09:51:14:11 10 of Ms. Johnson, Mr. Cavanaugh on the beach with three
11 children. These three children were -- or had been
12 described in some chat communication within that
13 Public PedoPub chat room, and we were able to identify
14 the oldest as being the victim in one of those images
09:51:37:29 15 that had been uploaded.

16 Q. Now, can you describe the images that
17 were uploaded to that particular dark website?

18 A. Yes. One -- one image was of the minor
19 child on her knees nude in the bathtub, apparently
09:52:00:12 20 shaving her legs. She was nude from -- well, she was
21 totally nude. You could see part of her face, enough
22 of the face to identify her, visually identify her.

23 The next image was an image of the same
24 minor in that bathtub/shower standing with her legs
09:52:25:09 25 spread, one leg propped up on the tub with shaving

09:52:29:18 1 cream on her left leg and that pink razor in her hand.

2 Q. Now, Investigator Evans, are you familiar

3 with Government's Exhibit 1?

4 A. Yes, I am.

09:52:44:17 5 Q. Could you describe for the Court what

6 Government's Exhibit 1 is?

7 A. This is communication attributed to the

8 subject of the investigation that uploaded those

9 images to this Public PedoPub website. And this would

09:53:02:12 10 be the content of communication to the public chat

11 room there.

12 Q. Now, based on what's contained in

13 Government's Exhibit 1, are you able to determine that

14 the individual who posted the images was also

09:53:27:11 15 responding to other individuals that were contained --

16 or that were in this particular chat room?

17 A. Yes.

18 Q. And so the information contained in

19 Government's Exhibit 1 relates to communications back

09:53:44:23 20 from the individual who posted the images?

21 A. Correct.

22 Q. So essentially it's a summary of that

23 particular person's responses?

24 A. Correct.

09:53:55:06 25 Q. Is that a fair and accurate

09:53:57:02

1 representation of those communications?

2 A. Yes, ma'am, it is.

09:54:05:00

3 MS. MORRISON: Your Honor, at this time I
4 would move for the admission of Government's Exhibit 1
5 into evidence.

6 THE COURT: You've seen those, Mr. Evans?
7 Luke Evans.

8 MR. EVANS: Yes, Your Honor, I've seen
9 them.

09:54:12:15

10 THE COURT: All right. They'll be
11 admitted.

12 (Government Exhibit No. 1 was admitted.)

13 BY MS. MORRISON:

09:54:19:20

14 Q. Investigator Evans, using the contents of
15 those chats, was Homeland Security and then your
16 office able to identify the defendant and the minor
17 victim in this case?

09:54:39:28

18 A. Yes. Just the contents of the chat, the
19 communication themselves was not the determining
20 factor on who it was that was sitting behind the
21 computer or phone at that time. Based on my
22 experience with online investigations, it indicated to
23 me, this communication, that it was a female and it
24 was the mother, in all likelihood, of these children
09:55:00:12 25 that was posting these images and communicating in

09:55:04:06

1 this manner. However, statistically over the years,
2 it's very rarely a woman. It's generally a male.

09:55:21:03

3 So we did not discount Brandon Cavanaugh
4 at that time as possibly being involved in this as
5 well. We were able to identify the victim, though,
6 just by facial comparison between Facebook pictures,
7 school fact sheet picture and then the picture that
8 was uploaded to the web.

10:11:34:08

9 Q. Based on the information that was
10 included in the chats, do you believe that there were
11 additional images that had not been, in fact --
12 additional images of the same nature that had not been
13 uploaded yet to the dark room chat?

10:11:50:21

14 A. Yes. I believe there were videos at some
15 point that had attempted to be -- that were
16 attempted to have been uploaded to that room, but the
17 user was having a hard time doing that, could not do
18 that. So they -- the individual then took still
19 pictures of the video and uploaded those, were able to
20 upload those to the website.

10:12:11:06

21 Q. Now, you've testified about difficulty
22 this individual had in uploading the videos. Do you
23 attribute the fact that there were multiple usernames
24 as a consequence of having difficulty uploading the
25 videos and essentially getting kicked off the platform

10:12:34:00

10:12:37:13

1 or out of the chat room?

2 A. Well, I think -- I think she says it
3 herself. I'm a dark web noob, meaning they're new.
4 So it's not a -- it's not a very user friendly

10:12:50:18

5 environment. It takes some getting used to in this
6 particular environment. It's not really a point and
7 click. They're -- and I've been to this particular
8 chat room. And so it is -- it is somewhat different
9 than what we are used to in Facebook Messenger or
10:13:08:29 10 texting. It is different. So it is -- there is a
11 learning curve as far as uploading files to the
12 website.

13 Q. Now, based on the contents of these
14 chats, is there any indication that only -- let me ask
10:13:30:05 15 this a different way.

16 Based on the contents of the chats, do
17 you believe that there may have been sexual contact
18 between the defendant and the minor victim?

19 A. It indicates there was.

10:13:43:19

20 Q. Could you be -- could you be more
21 specific about what leads you to believe that based on
22 the contents of the chats?

23 A. I believe there was a statement that oral
24 sex has been performed by the subject on the minor, as
10:13:57:26 25 well as other things.

10:14:00:02

1 Q. Was there a reference about purchasing
2 panties for the minor victim?

3 A. Yes, there was.

10:14:14:06

4 Q. Now, you testified that a number of
5 search warrants were executed in this case. Could you
6 describe the circumstances surrounding the execution
7 of the first search warrant?

10:14:35:17

8 A. Well, the execution of the first search
9 warrant I think occurred on the 14th of January. We
10 had received information in early January, had
11 attempted to do surveillance at that property in
12 Powell. Very difficult to surveil. It was on a
13 cul-de-sac. We could -- we attempted to put her
14 vehicle there or a vehicle there registered to her.
15 Every time we went by we couldn't -- couldn't put a
16 vehicle there.

10:14:55:20

17 We knew that she and Brandon Cavanaugh
18 both worked at Serve Pro. A decision was made to go
19 to Serve Pro and try to determine work schedules and
20 where people were working from. This was still in the
21 COVID days where people -- a lot people were still
22 working from home. And we were limited, really, on
23 what we were doing in the field at that time. We did
24 make contact with the management at Serve Pro. I
25 advised them of the type of investigation it was and

10:15:39:02

10:15:43:20 1 it was very confidential and highly sensitive, but we
2 were trying to determine where she was at most of the
3 time. They told us that she'd be working from home in
4 all likelihood.

10:15:57:05 5 We had conversation with management, left
6 a card there, and then we decided to apply for a
7 search warrant for that residence for any electronic
8 items and phones, which we did. We secured that
9 warrant and then we executed that warrant.

10:16:19:29 10 Q. What happened after the execution of the
11 search warrant?

12 A. Mr. Cavanaugh was interviewed there.
13 Ms. Johnson was interviewed as well. Items were
14 confiscated from -- from the residence. DCS had been
10:16:37:03 15 notified of the type of investigation, so they
16 responded to the residence and made a determination
17 on -- of what to do with the children at that time.
18 Tough situation.

19 Both Johnson and Cavanaugh denied any
10:16:57:01 20 knowledge of pictures being taken or uploaded to the
21 dark web. Both, I think, identified the girl in the
22 picture and the bathroom in which it was taken. Both
23 identified that. We left. Later on that evening took
24 our devices back to the ICAC offices at that point.

10:17:29:09 25 Q. Now, Investigator Evans, were you present

10:17:32:08

1 at the home when the search warrant was executed?

2 A. Yes, ma'am, I was.

3 Q. Did you have the opportunity to view the
4 bathroom where these images were created?

10:17:41:06

5 A. I did.

6 Q. Now, based on what you saw about the
7 bathroom, is there any way that the minor victim could
8 have photographed herself?

10:17:55:08

9 A. The bathroom wasn't set up in that
10 manner. There was just a wall and no table, no
11 counter, no chair, nothing to be able to put that --
12 to put a phone on and take that type of picture.

13 Q. Based on your observation of the
14 bathroom, is it your belief that someone had to take
15 that photograph of the minor victim?

10:18:19:07

16 A. Yes, ma'am.

17 Q. Now, when you interviewed the defendant,
18 was there anything about her questions or her
19 statements about EXIF data that you found interesting?

10:18:36:09

20 A. Well, the interesting initial part of the
21 files that were uploaded is the first file that was
22 uploaded had EXIF data or metadata attached to it.
23 That's information about the file. And so it contains
24 date, time, type of camera that may have been used.

10:18:55:18

25 It could contain GPS coordinates. It could contain a

10:19:00:11

1 whole host of information about the device that
2 actually took the picture.

10:19:14:24

3 Sometimes you don't get that and you
4 can -- you can program your phone not to include
5 certain data in the pictures that you take. The first
6 picture had GPS data. Apparently, based on the
7 communication, someone in the chat room downloaded
8 that file, they viewed the EXIF data of that file --
9 not unlike what we would do as investigators. Viewed

10:19:36:21

10 the EXIF data of that file. They were able to see the
11 date, time. They were able to see the GPS coordinates
12 and they plotted those in either Google Earth or some
13 Internet search engine and they were able to tell the
14 subject that here is your home address, 7905

10:20:01:26

15 Cedarstone Lane. They were able to tell her that in
16 some manner. And she responds by then taking the
17 EXIF data out of the second picture that's uploaded to
18 the dark web.

10:20:20:18

19 Additionally, she states in the
20 communication, someone told me -- she states it
21 publicly to the room, someone told me my home address.
22 Thank you for bringing that to my attention, I'm
23 paraphrasing that. So that -- that was very
24 concerning. And when we asked, my partner asked about

10:20:41:21

25 the EXIF data, one of her initial statements was, it

10:20:45:14 1 can be changed. When he indicated that that's how we
2 got to the house was those GPS coordinates associated
3 with one of those images, she made the statement, it
4 can be changed.

10:21:03:10 5 Q. I assume that the devices that were
6 seized in connection with the execution of her search
7 warrant were searched?

8 A. Yes.

10:21:13:06 9 Q. Could you describe what was located
10 during the search?

11 A. Well, one of the first -- one of the
12 first items that we wanted to take a look at was her
13 personal cell phone. It had been taken, secured in a
14 Faraday bag and transported back to our office. When
10:21:29:18 15 the cell phone was taken out of the Faraday bag, it
16 had been wiped remotely, so there was no -- there was
17 some data on that phone, but not much. Not what we
18 expected to have been there.

19 We were able to find some information off
10:21:52:01 20 one of her devices, I believe it was her phone,
21 regarding a text communication she had had with
22 Brandon Cavanaugh a few days prior to the execution of
23 the search warrant where she had apparently located a
24 business card that I had left at Serve Pro with
10:22:12:06 25 management, taken a picture of that and sent that to

10:22:16:04 1 Brandon Cavanaugh. So at that point we knew that she
2 had had advance notice that there were probably
3 investigators looking at her for the distribution of
4 those child pornography images she uploaded to the
10:22:32:15 5 dark web.

6 Exams have been done on multiple items.
7 There had been child pornography found on a laptop
8 computer that we gained through a secondary search.
9 They had hidden that -- they'd hidden that computer
10:22:52:27 10 fairly well when we got there to do the first search.
11 That computer had been hidden.

12 Q. So let me ask you this: Were you able to
13 determine when her personal cell phone had been wiped?

14 A. Well, we believe it was that night. I
10:23:11:18 15 don't know if I could give you that time, but we had
16 it in our possession and it was, as any cell phone
17 would be, functioning. It goes into a Faraday bag,
18 and then we get it out a few hours later at the office
19 and there had been a remote wipe of the phone.

10:23:31:23 20 Q. So is it your understanding that the
21 remote wipe occurred after the execution of the search
22 warrant?

23 A. That's correct.

24 Q. What would be the purpose of putting the
10:23:41:28 25 phone in a Faraday bag?

10:23:43:19

1 A. Well, to eliminate that possibility.
2 It's not always easy and you can't always put a phone
3 in airplane mode. Sometimes you actually have to have
4 the passcode to do that. I'm not familiar -- I didn't
5 see her phone and I didn't seize it, one of our
6 technicians did, but generally put those in the
7 Faraday bag to eliminate the possibility of a remote
8 wipe, of network access.

10:23:58:09

10:24:13:12

9 Q. Now, was the defendant's personal cell
10 phone the only device that had been wiped?

10:24:39:05

11 A. I think there had been another cell phone
12 that had been reset a few days earlier. That's all I
13 can remember. I know that the secondary computer, the
14 secondary search warrant that was executed to recover
15 that computer that had been placed up in the attic
16 under the insulation, I know that that computer had
17 been reset, that Asus laptop computer, and the reset
18 date was January the 15th. January the 15th.

10:24:58:04

19 Q. That was after the execution of the
20 search warrant?

10:25:14:29

21 A. That was after the execution of the
22 search warrant. And some examination done on that
23 corroborates some information that Mr. Cavanaugh had
24 given us at a later date regarding going to McDonald's
25 and using the McDonald's wi-fi to eliminate online

10:25:21:26

1 accounts.

2 Q. Let's talk about that. How did you learn
3 that this had occurred?

10:27:12:02

4 A. At the -- Mr. Cavanaugh, through his
5 attorney, made contact with the US Attorney's Office
6 and law enforcement after the -- a number of days
7 after the search warrant, the first search warrant had
8 been executed. He indicated he wanted to come in and
9 speak to investigators regarding the investigation,
10 that he had not been honest at the time we interviewed
11 him at the house.

10:27:28:05

12 He came in with his lawyer, sat down and
13 talked to us and he detailed the fact that we
14 didn't -- we didn't get everything. That he was in
15 fear of Justis Johnson, that he was scared --
16 physically scared of her. He was worried about
17 retaliation. That he had talked her into keeping the
18 laptop, not getting rid of it, but just hiding it.
19 And that she had been up the past few days on that
20 laptop trying to clean it up is what he indicated.

10:27:45:09

10:28:11:27

21 Q. Was he able to provide you with a
22 location for the laptop?

10:28:32:25

23 A. He did. He said it was up in the attic,
24 three beams to the front of the house and under a
25 truss or something. It was pretty good directions on

10:28:35:17

1 where it was located, and it was in a plastic -- a
2 white plastic bag.

3 Q. Was this -- was it his understanding that
4 this laptop had been concealed so it could not be
5 located during any search?

10:28:46:14

6 A. Yes.

7 Q. Was this particular laptop forensically
8 examined?

9 A. Yes.

10:28:56:20

10 Q. What was located during the examination
11 of this particular laptop?

12 A. We found numerous -- the laptop was
13 reset, so there was a lot -- there was a lot of data
14 that had been removed, deleted, unable to be
15 recovered. However, we did recover some Tor website
16 fragments pointing to child pornography Tor websites.
17 We found some child pornography that we see in our
18 everyday investigations of the receipt, possession and
19 distribution of child pornography.

10:29:11:02

10:29:41:16

20 We did not find any images of the victim
21 on the laptop. I believe we did find some email
22 fragments from Justis Johnson's gmail account. One of
23 her gmail accounts regarding a confirmation of the
24 evil -- the Tor Evil Onion browser. So it appeared
25 that she'd made an online app purchase through the

10:30:11:09

10:30:16:12 1 Apple app store to download this browser in order to
2 navigate the dark web. And the Tor touts itself as an
3 anonymizer. If you use that, it hides and masks your
4 IP address.

10:30:38:14 5 Q. Were any noncontraband photos of the
6 defendant and her minor children located on that
7 laptop?

8 A. I believe so. I think they were more --
9 yes, I believe so.

10:30:56:15 10 Q. Is there any indication that this laptop
11 was used by Mr. Cavanaugh?

12 A. Not of any consequence. I think there
13 may be some references to some of his schoolwork where
14 he's logged in to check schoolwork and maybe some --
10:31:20:21 15 online Amazon purchase, but that's -- that's all I can
16 remember from the -- that's a lot of material that
17 we've looked through on this particular case.

18 Q. During the course of your investigation,
19 did you locate any information that indicated
10:35:32:14 20 Mr. Cavanaugh was involved in the production of these
21 contraband images?

22 A. No, not that he was involved in the
23 production. But we did have information that he was
24 aware of it. That he became aware of it after the
10:35:49:01 25 production and after the files had been distributed,

10:35:51:08

1 he was advised.

10:36:12:19

2 Q. At some point did he indicate that the
3 defendant had actually sent him these images of the
4 minor victim that were actually posted in this dark
5 web chat room?

6 A. Yes, he indicated that she had sent some
7 images through Snapchat.

8 Q. Did he retain copies of these images?

10:36:24:29

9 A. He was able to take a picture of the
10 screen on his phone. So, yes.

11 Q. Did he -- I'm sorry to interrupt you,
12 sir. Did he say why he had taken copies of those --
13 or taken photos of the images he received via
14 Snapchat?

10:36:37:19

15 A. He said he thought he might need them
16 down the road, that -- that's what he said.

17 Q. Was he concerned about potential
18 retaliation or something of that nature?

10:36:57:03

19 A. He said he was concerned for the kids,
20 but he was also concerned for himself, as far as
21 retaliation. And that's -- that word was also used by
22 the -- by Johnson's sister as far as retaliation. She
23 is concerned about that as well.

10:37:21:27

24 Q. When you met with Brandon Cavanaugh, did
25 he disclose that there had been prior incidents of

10:37:26:00

1 domestic violence with the defendant?

10:37:41:27

2 A. He indicated that, yes. And we found a
3 video, a self-produced video by Mr. Cavanaugh showing
4 and detailing a domestic situation that he'd had with
5 Ms. Johnson after they had been out drinking and he --
6 he indicated they had used some drugs, I believe
7 cocaine is what I remember, which he said that he or
8 she would get through an individual at Serve Pro. But
9 he did indicate that in this video he showed marks of
10 his face and his lip where he had been, it appeared,
11 hit and scratched.

10:38:05:14

12 Q. To your knowledge, were any of these
13 incidents ever reported to law enforcement?

14 A. No.

10:38:19:06

15 Q. Now, were you able to corroborate any of
16 Mr. Cavanaugh's statements through the forensic
17 examination of these devices?

10:38:40:11

18 A. Well, it appeared that what he said in
19 the way of violence being recent, where she found my
20 business card; that after the execution of the
21 warrant, she advised him that they were going to get
22 in the car, drive down to Serve Pro and get his iPad
23 from the work truck and then go and start making
24 changes to online accounts, namely the Apple accounts.
25 I think most of the iCloud accounts, if not all the

10:39:06:13

10:39:09:06

1 iCloud accounts, I believe, were deleted.

2 So he indicated they'd gone to McDonald's
3 and accessed the Internet from there. I think I saw
4 an Internet access from Serve Pro from that laptop.

10:39:26:15

5 And then another access from a US Cellular hotspot is
6 what we documented on that Asus laptop, I believe. So
7 that indicated that what he was saying to us, was, in
8 fact, true. I'll just -- that's all I can --

10:39:53:18

9 MR. EVANS: I'm going to object to
10 him giving any opinion on the truth or veracity of
11 someone's statement to him, whether -- I don't think
12 that's relevant. Your Honor is in charge of
13 determining credibility.

10:40:06:05

14 THE COURT: I'll give it whatever weight
15 it's due.

16 BY MS. MORRISON:

10:40:19:03

17 Q. Investigator Evans, you indicated that
18 the defendant's sister was concerned about retaliation
19 in this matter. At one point after the execution of
20 the search warrants, was the minor victim residing
21 with the defendant's sister?

22 A. Yes, she was.

10:40:35:02

23 Q. Now, while the minor victim was residing
24 with the defendant's sister, was there communication
25 between the defendant and the victim that was

10:40:38:16

1 occurring that was in violation of the juvenile court
2 order?

3 A. Yes. Information we had through DCS
4 indicated that there were multiple violations of that
5 order of supervised communication. That's what we had
6 been advised.

10:40:50:24

7 Q. How did the defendant's sister learn of
8 the -- let me strike this and ask it a different way.

10:41:09:15

9 During the course of the investigation,
10 were you provided with screenshots that were taken by
11 the defendant's sister?

12 A. Yes.

13 Q. What was depicted in these particular
14 screenshots that the defendant's sister took?

10:41:22:07

15 A. At this particular time the victim was no
16 longer residing full-time with the sister. The
17 sister -- it had been increasingly difficult to
18 control her. I think her behavior was -- she was
19 acting out. The sister has other children, and it was
20 creating a problem within the home. And so she had
21 told -- I believe she advised DCS that she can no
22 longer care for the victim. At that point the victim
23 was then going to live with the father, biological
24 father, Whitt Nicholson.

10:41:41:17

10:42:02:17

25 One day after school I think she brought

10:42:07:01 1 the victim to her home for a short period of time for
2 Mr. Nicholson to get off work and then come pick her
3 up. During that time the victim asked to use her
4 laptop to do some schoolwork. She'd left her
10:42:24:04 5 Chromebook at school --
6 MR. EVANS: Judge, I'm going to object at
7 this point at that overall reliability. I think this
8 is getting into an issue where we're probably multiple
9 people deep on hearsay and I understand hearsay's
10:42:37:04 10 allowed. But when we're talking about the victim's
11 sister -- or, excuse me, Ms. Johnson's sister and
12 information that was relayed to this agent from her
13 and potentially from others, Your Honor, I think
14 this -- this is not appropriate for this -- for this
10:42:55:18 15 Court. I'd ask that the Court exclude it.
16 THE COURT: I think this is somebody
17 else's sister. I don't know whose sister this is.
18 We're multiple sisters in at this point, it seems
19 like.
10:43:04:18 20 Ms. Morrison, can you clean this up a
21 little bit? I'll let you put the testimony on, but I
22 don't want a who-shot-John about every single line of
23 hearsay this went through. What's the point?
24 MS. MORRISON: I'm happy to do that, but,
10:43:17:13 25 Your Honor, this goes to danger to the community and

10:43:19:18

1 danger to the particular victim in this case and the
2 defendant's willingness to comply with any conditions
3 of release that this Court might order.

10:43:29:25

4 THE COURT: That's why I told you I'm
5 going to let you put it on, but just clean it up. You
6 can lead if you need to.

7 BY MS. MORRISON:

8 Q. Investigator Evans, who is Mikel Richert?

9 A. That is the sister of Justis Johnson.

10:43:43:21

10 Q. At some point was the minor victim, the
11 defendant's daughter, living with Mikel Richert?

12 A. Yes.

13 Q. Did Mikel Richert let the minor victim
14 use Mikel's laptop when the minor victim came to her
15 home?

10:43:58:09

16 A. Yes.

17 Q. What happened when the minor victim used
18 Mikel Richert's laptop?

19 A. She logged in to her school account and
20 then left the home and did not log out. Ms. Richert
21 observed the account open. She observed draft
22 communications between the victim and the mother. And
23 that was the way that they had learned to communicate
24 in a secure fashion. The daughter gave the mother the
25 password and username for her school account and they

10:44:31:28

10:44:35:12 1 would create drafts to one another and not send the
2 email.

3 She captured that. She sent that to me
4 and she also captured IP addresses that had logged in
10:44:47:12 5 to that gmail, school gmail account, one of which came
6 back to the 7905 Cedarstone Lane in Powell, which is
7 Justis Johnson's Internet service. And other came
8 back to Joseph McGee at 101 Batey Court in Smyrna,
9 Tennessee.

10:45:10:04 10 Q. Who is Joseph McGee?

11 A. That is, we believe, the husband of Biane
12 McGee.

13 Q. Now, at the point in time where these
14 drafts were being written in the email account of the
10:45:22:24 15 minor victim but not sent, was this type of contact
16 permitted by the juvenile court?

17 A. It was not allowed.

18 Q. Was there also a website called
19 mikelrichert.com that was created?

10:45:36:23 20 A. There was.

21 Q. Can you describe what was on that
22 particular website?

23 A. Ms. Richert was receiving --

24 MR. EVANS: Objection. Judge, I -- I
10:45:47:07 25 don't know how this goes to dangerousness or risk of

10:45:49:29

1 flight.

2 THE COURT: Ms. Morrison.

3 MS. MORRISON: Your Honor, I think it's
4 relevant to dangerousness.

10:45:55:03

5 THE COURT: I'll let you ask. It will be
6 overruled.

7 BY MS. MORRISON:

8 Q. Investigator Evans, could you describe
9 what was depicted on this particular website?

10:46:06:17

10 A. Ms. Richert, it was a picture of
11 Ms. Richert performing oral sex on an adult male.
12 Underneath the picture it had in her name, full name,
13 date of birth, Social Security number and address.

14 Q. Were you able to determine who created
15 that particular website?

10:46:24:03

16 A. I issued a subpoena for records to Info
17 Maniac in Sweden. They complied. They said that
18 Justis Johnson at 7905 Cedarstone Lane in Powell had
19 created it. It listed IP addresses that had logged
20 into that site. I think one of the IPs came back to
21 First Call where she now works and another comes back
22 to Joseph McGee in Smyrna, Tennessee. Those are two
23 of the -- two other IPs were anonymous VPN IP
24 addresses.

10:46:49:09

10:47:10:19

25 Q. Do you know approximately the timeframe

10:47:14:25

1 that this particular website was created?

2 A. It was about the time that Mikel Richert
3 had decided that she just couldn't -- couldn't handle
4 taking custody of the child anymore.

10:47:31:29

5 Q. Now --

6 THE COURT: Wait, when is that?

7 THE WITNESS: I cannot remember the date
8 on that. I mean, it was --

9 THE COURT: How about a year, even?

10:47:46:03

10 THE WITNESS: It would have been 2021.

11 BY MS. MORRISON:

12 Q. Investigator Evans, on April 11 of 2022,
13 were flowers delivered for the victim at her school?

14 A. Yes.

10:48:04:14

15 Q. Could you describe what you learned about
16 how the flowers were delivered and who ordered them?

17 A. Yes. I was contacted by the biological
18 father, Whitt Nicholson. He indicated the school
19 contacted him regarding some flowers that were being
20 delivered to Adelyn. He -- I think the school put a
21 hold on those, knowing that there was a situation that
22 DCS was involved in. And generally they don't allow
23 flowers just to go to children there at the school
24 during school hours. He told me about that, indicated
25 where the flowers had come from. I made contact with

10:48:46:12

10:48:49:21 1 the florist who took the order for the flowers. An
2 individual by the name of Ames Brown had ordered those
3 flowers and had them sent to Adelyn.

4 The card, although I can't remember
10:49:05:22 5 exactly what the card says, it was a Have a Good Day
6 type of card, signed Felicia. And Ames Brown had told
7 the store owner that he was getting flowers for his
8 girlfriend's daughter.

9 Q. Were you able to determine Ames Brown's
10:49:25:18 10 connection to the defendant?

11 A. Yes. Ames Brown's name had come up
12 around that same time by Whitt Nicholson, the neighbor
13 had identified his car and took a picture of his
14 license plate at Whitt Nicholson's house. Ames Brown
10:49:48:15 15 lives on Sky Top Lane in Powell, Tennessee. And
16 apparently is where Justis Johnson meets with her two
17 youngest children.

18 Mr. Brown has a handgun carry permit and
19 was seen at the residence of Whitt Nicholson where the
10:50:06:25 20 victim resides delivering some type of package, and
21 this was around the time of the youngest son's, Axle's
22 birthday, I believe.

23 Q. And, I'm sorry to interrupt you, sir. Is
24 Ames Brown known to Whitt Nicholson?

10:50:25:12 25 A. He is now.

10:50:27:07 1 Q. But prior to delivering of the package or
2 the flowers had no connection to the defendant -- to
3 Mr. Nicholson?

4 A. Not that I know of.

10:50:36:21 5 Q. Have you been able to determine nature --
6 determine whether or not he has a relationship with
7 the defendant?

8 A. We believe he does based on calls to the
9 jail. He tells her he loves her. They respond in
10:50:53:13 10 kind. We believe he's living at that townhome in
11 Smyrna at this time. We believe he is there and has
12 stayed there based on information we have from the
13 jail phone calls.

14 Q. The timeframe when he -- Mr. Brown was
10:54:09:11 15 seen in the vicinity of Whitt Nicholson's home, was
16 that before or after the flowers were delivered?

17 A. I think that was before.

18 Q. Was it within a week or two weeks?

19 A. It was in a couple weeks of one another,
10:54:29:07 20 I believe.

21 Q. Besides the draft emails that were
22 located in the minor victim's school email account,
23 are you aware of any other violations that the
24 juvenile court ordered regarding contact between the
10:54:45:13 25 defendant and minor victim?

10:54:50:04 1 A. DCS has documented a number of
2 violations. I can speak to the fact that there's been
3 some communication over text where Whitt Nicholson has
4 seen texts that the mother is indicating to the
10:55:08:06 5 daughter, go get the Signal app, have your friends
6 download the Signal app. That way we can be safe or
7 communicate safer.

8 We have information that the victim's
9 been using phones from school friends to communicate
10:55:28:02 10 through texts with the mother. We believe there's
11 Instagram accounts that have been set up and used.
12 There is currently some court process issued on some
13 of those accounts.

14 There's also an incident at the school
10:55:45:19 15 where the child got in trouble and the teacher told
16 her to call her custodian. We believe the child
17 called her mother. The teacher spoke to the mother.
18 The mother appeared -- pretended to be Mikel Richert,
19 the custodian of the child at that time, through the
10:56:07:13 20 conversation.

21 MR. EVANS: Judge, again, I'm going to
22 object as to the -- based on the earlier reliability
23 objection for the purposes for this hearing being as
24 to dangerousness and risk of flight.

10:56:22:19 25 THE COURT: I think compliance with other

10:56:24:03 1 court orders is relevant. But, again, let's -- let's
2 clean things up and cut to the chase a little bit.
3 BY MS. MORRISON:
4 Q. Investigator Evans, were you able to
10:56:36:06 5 verify that the victim did not, in fact, call Mikel
6 Richert and the school did not, in fact, communicate
7 with Mikel Richert on that occasion?
8 A. The teacher confirmed that.
9 Q. Is there anything else that you think the
10:56:53:06 10 Court should know about any violations of the juvenile
11 court order regarding contact between the defendant
12 and the minor victim?
13 A. Other than it's just been consistent.
14 It's been consistent. Every couple of months we hear
10:57:10:27 15 of some other manner in which she is attempting to
16 contact the victim in this case.
17 Q. Investigator Evans, do you believe that
18 the defendant poses a danger to the minor victim if
19 she is released?
10:57:24:23 20 A. I do.
21 Q. Could you explain for the Court what your
22 concerns are?
23 A. One, I think that she's going to continue
24 to try to contact this victim. I just don't think
10:57:36:21 25 that's going to stop.

10:57:39:12

1 MR. EVANS: Objection. His speculation
2 going forward is not relevant.

3 THE COURT: I want to know what the harm
4 is. What's the harm, Mr. Evans?

10:57:53:19

5 THE WITNESS: She tried to manipulate
6 this child to not disclose that she took pictures of
7 her and distributed those on the Internet.

10:58:04:00

8 THE COURT: Well, where -- what is the
9 evidence of that? You haven't said anything about
10 that yet.

10:58:17:10

11 THE WITNESS: Well, she has mentioned --
12 the child has mentioned to multiple people that mom
13 may have taken a picture accidentally in the bathroom.
14 She did not disclose that during the forensic
15 interview, but she has said that to Mikel Richert.
16 She has indicated that to her siblings and who have
17 then told Jeremy Buchanan, who is their father. So
18 other people have -- are aware of -- of the activity.

10:58:38:09

19 It appears that she's been giving her
20 lavish gifts, trying to communicate with her in ways
21 in which it's not supervised in order to control this
22 particular child's narrative.

23 THE COURT: Anything else, Ms. Morrison?

24 MS. MORRISON: Just briefly, Your Honor.

25

10:58:54:21

1 BY MS. MORRISON:

10:59:05:21

2 Q. Investigator Evans, you mentioned that
3 the minor victim had been receiving lavish gifts from
4 the defendant during the ongoing course of the
5 juvenile court case. When you say that they're
6 extravagant, are they extravagant in relation to
7 what's been given to the two other minor children?

8 A. Yes, ma'am.

10:59:21:00

9 Q. Could you be -- could you provide any
10 specific examples of that?

10:59:41:09

11 A. DCS advised of a Louis Vuitton bag that
12 may be a four or \$500 bag. Additionally, the victim
13 was found to be in the possession of a few hundred
14 dollars that she'd indicated that her dad had given
15 her, and he did not give her that money. We're still
16 unsure as to where that money came from, but...

17 MS. MORRISON: Your Honor, if you'd just
18 give me one minute, I believe I could be done.

19 I don't have any further questions.

10:59:59:16

20 Thank you.

21 THE COURT: Mr. Evans, questions of this
22 witness?

11:00:13:01

23 MR. EVANS: Prior to questioning
24 Mr. Evans, I would -- I'll note for the Court that
25 prior to the hearing Ms. Morrison provided me with

11:00:15:19 1 several items of prior -- representing prior
2 statements of, I believe, Officer Evans, that being
3 the search warrants -- compromised of search warrants
4 affidavits and then a -- the synopsis report related
11:00:36:06 5 to the investigation.
6 I did want to -- I appreciate her doing
7 that. I did want to formally move for production of
8 witness statements at this time to ensure that there
9 are no other witness statements that exist or relevant
11:00:48:03 10 to this witness.
11 MS. MORRISON: And, Your Honor, I've
12 produced all the statements that I'm aware of and that
13 I have custody of.
14 THE COURT: All right, very good.
11:00:57:09 15 MR. EVANS: Thank you.
16 **CROSS-EXAMINATION**
17 BY MR. EVANS:
18 Q. Mr. Evans, do you go by agent, officer,
19 detective?
11:01:04:04 20 A. Investigator.
21 Q. Investigator, okay. So maybe I'll just
22 stick with Mr. Evans and we can -- we can go from
23 there. Just for clarity of the record, we're not
24 related, are we?
11:01:17:15 25 A. No, we are not.

11:01:18:06 1 Q. Okay. Just wanted to make sure. So --
2 at least not that we know of.
3 So have you ever testified in relation to
4 this case in front of anybody whatsoever?

11:01:33:12 5 A. No.
6 Q. Never testified in front of a grand jury?
7 A. No.
8 Q. Okay. All right. So couple of things I
9 want to go through. And I want to start back when
11:01:47:00 10 you're talking about the statements of the child in
11 relation to these gifts. Have you personally
12 interviewed this child?
13 A. No, I have not.
14 Q. The information that you just gave about
11:01:57:19 15 the bags, let's talk about lavish gifts. That
16 information, where did that come from?
17 A. That would be coming from DCS.
18 Q. Okay. And then DCS doesn't have
19 firsthand knowledge of the bag or who gave the bag;
11:02:13:01 20 fair to say? Right?
21 A. Well, I'm not sure about that.
22 Q. All right. So do you know where they
23 even got the information from?
24 A. I don't believe at this moment, I really
11:02:25:20 25 can't.

11:02:26:04 1 Q. Okay. And you talked about your opinion
2 being that my client poses some sort of a danger
3 because she's trying to manipulate -- in your mind
4 manipulate what this child might or might not say. Is
11:02:40:15 5 that a fair summary of your earlier testimony in that
6 regard?
7 A. That's what we're concerned about, yes.
8 Q. You're concerned about it, but you would
9 agree with me that regardless of what court orders and
11:02:51:24 10 juvenile court may or may not have said, what you've
11 testified to today is that my client is giving her
12 gifts when she's not supposed to. Fair enough?
13 A. Okay.
14 Q. All right. You said a Louis Vuitton bag,
11:03:05:23 15 but isn't it more accurately, whether it matters or
16 not, a Michael Kors bag, not a Louis Vuitton bag?
17 A. Could be.
18 Q. Could it be because you don't -- you're
19 kind of spitballing, for lack of a better word, as to
11:03:19:13 20 some of this information, are you not?
21 A. Well, I'm not spitballing it. That's
22 what was told to me.
23 Q. Okay. And you're familiar with the old
24 concept of phone game; right?
11:03:31:01 25 A. You'll have to explain.

11:03:32:16

1 Q. As information gets passed from one
2 person to the next, it often changes; right?

3 A. Okay.

11:03:41:09

4 Q. And the more people it goes through, it
5 gets less reliable. You'd agree with that?

6 A. It's possible, yes.

11:03:56:17

7 Q. All right. So when you're talking about
8 these alleged infractions of juvenile court orders
9 from my client as it relates to contact with the
10 oldest child, Adelyn, you're getting that information
11 from DCS?

12 A. Yes, sir.

13 Q. Not sure where DCS is getting their
14 information; correct?

11:04:10:28

15 A. Correct.

11:04:28:06

16 Q. You talked a little bit about this fear,
17 we talked about that a while ago, this fear of why my
18 client is a danger trying to affect this child's
19 statement. None of the interactions that you have,
20 not one of them, written interactions or -- that I
21 think you say are between my client and the child, do
22 they -- or none of them say -- or my client's
23 purportedly saying, hey, don't tell the cops this or
24 don't tell the cops that; right?

11:04:45:07

25 A. No. I think there was one -- one draft

11:04:49:29

1 email regarding the Fifth Amendment.

2 Q. Her constitutional rights?

11:05:04:23

3 A. Well, I think -- I can't remember exactly
4 how that draft email came out. But there was some
5 communication between the two about we've got to be
6 careful, we've got to have a certain person on our
7 side, that type of communication.

8 Q. Okay. And, again, this is the school --

9 A. (simultaneous crosstalk).

11:05:23:10

10 Q. Okay. You've been made aware of these
11 different areas of purported interactions with the
12 child well before last week; correct?

13 A. Yes.

11:05:39:28

14 Q. You would agree with me that you have the
15 ability, the authority to immediately arrest Justis
16 Johnson throughout this investigation. You had the
17 ability to go and immediately arrest her if you felt
18 that her actions were endangering the safety of
19 others?

11:05:58:26

20 A. Well, I don't know that. I know that we
21 felt the child was -- we had hoped the child was in a
22 safe environment. The child has had to be moved
23 from one person to the next, and we still had these
24 unauthorized communication.

11:06:21:14

25 Q. But my point is, are you testifying today

11:06:24:02 1 that as an officer of the law, in your role, that you
2 don't believe you had the ability to go out and arrest
3 her on state charges or some sort of criminal
4 complaint prior to any indictment being --

11:06:39:29 5 A. I may have been able to do that, but we
6 chose -- we chose this method, especially since we had
7 to rebuild and relook at the devices that were
8 confiscated in this particular case because evidence
9 has been destroyed. So that makes it much more
11:06:56:26 10 difficult for us when a subject has a head start and
11 knows we're coming.

12 Q. Okay, so -- but let's back up. Let's
13 talk about a head start. I just want to make sure
14 because I want to talk about this concept of you
11:07:12:08 15 saying she's a danger. Because you would agree with
16 me that Ms. Johnson has known about this investigation
17 at least since January 13 of 2021; right?

18 A. Well, prior to that, but yes.

19 Q. Okay.

11:07:28:19 20 A. Prior to January.

21 Q. All right. Prior to that. And but the
22 13th would have been the execution of the first search
23 warrant, I believe, if that's --

24 A. Yeah, 13th, 14th, somewhere there.

11:07:39:16 25 Q. Okay. And you would agree with me you

11:07:42:00 1 knew where to find her when it came time to arrest her
2 on this charge; right?

3 A. We had to look a little bit, but yeah, we
4 found her.

11:07:49:00 5 Q. And you would agree with me that in
6 January, I think, of 2021 you received an email from
7 me stating I represented Ms. Johnson; correct?

8 A. I may have.

9 Q. Right. And you passed that along to
11:08:05:12 10 Frank Dale who is the assistant US Attorney in the
11 Eastern District?

12 A. Yes, sir.

13 Q. And I at that time communicated to you
14 and Mr. Dale that I represented her and to contact me
11:08:17:21 15 if you needed anything; right?

16 A. Yes.

17 Q. And you never even had to call me and
18 say, hey, where's your client, did you?

19 MS. MORRISON: Your Honor, I'm going to
11:08:25:29 20 object based on relevance. I'm not sure how counsel
21 reaching out to the US Attorney's Office or the
22 investigator in question goes to the danger to the
23 community or risk of flight.

24 MR. EVANS: It goes to the heart of risk
11:08:38:15 25 of flight. This -- my client has known about this

11:08:41:10 1 thing since January of 2021 and has had a lawyer this
2 entire time saying, here I am, let's talk, reach out
3 to me if you need us. That -- that's the heart of
4 risk of flight. She's staying here and fighting this
11:08:57:05 5 proceeding.
6 THE COURT: I think you made your point,
7 Mr. Evans. I get it.
8 MR. EVANS: Thank you.
9 BY MR. EVANS:
11:09:03:16 10 Q. So at no time, just to be clear, no time
11 since January of 2021 based on all the information
12 you've had about potential danger for Ms. Johnson,
13 have you reached out and taken out a warrant for her
14 arrest prior to this indictment issuing; correct?
11:09:29:06 15 A. Correct.
16 Q. All right. So let's go back and kind of
17 go through some of your earlier testimony. So I want
18 to be clear. You said there was two images,
19 essentially, that you became aware of that were at
11:09:47:24 20 issue; correct?
21 A. Yes, sir.
22 Q. And you said one of them had GPS
23 information and one of them did not?
24 A. Yes.
11:09:54:27 25 Q. All right. And you have attributed those

11:09:59:07 1 being taken by my client, Ms. Johnson; correct?

2 A. Correct.

3 Q. And in all reality, you can't say with
4 any certainty -- you don't -- let me say it this way.
11:10:13:03 5 You don't have any direct knowledge of who took those
6 photographs; is that correct?

7 A. We did not see her take those
8 photographs.

9 Q. Okay. So when you say she took the
11:10:25:04 10 photographs, you're basing that on I think what you
11 said, your experience?

12 A. Well, among other things. We believed,
13 just going in, based on the communication, that it was
14 a female that was communicating within this chat room.
11:10:42:12 15 That -- that is experience. But that doesn't
16 necessarily mean that's who it was.

17 But once we have examined these other
18 items and seen email confirmations of a Tor evil
19 browser purchase, websites on the dark web that we
11:11:01:07 20 were able to recover and the corroborating
21 statements -- statements that Mr. Cavanaugh made that
22 we were able to corroborate with some examination,
23 then it is your client.

24 Q. Okay. And I understand you believe that,
11:11:18:12 25 but let's talk about what you know. You know that

11:11:21:18 1 Brandon Cavanaugh lived in that same address with
2 Ms. Johnson; correct?
3 A. Correct.
4 Q. During that same period of time; right?
11:11:28:10 5 A. Yes, sir.
6 Q. He had access to the same Internet
7 devices as Ms. Johnson; correct?
8 A. Yes, possible.
9 Q. Possible. He admitted to it during his
11:11:43:09 10 interview, did he not?
11 A. Well, he had access to devices that were
12 in the house.
13 Q. There you go. Okay. And so he also had
14 access to different passwords for different accounts
11:11:57:01 15 that she had; correct?
16 A. I don't know that.
17 Q. Don't know that, okay. You said
18 statistically, if I understood you correctly, that
19 it's typically a male; right?
11:12:11:11 20 A. Yes.
21 Q. And there was a male living at that house
22 that was not related to Ms. Johnson's oldest daughter?
23 A. Correct.
24 Q. And who admitted to -- conveniently to
11:12:22:22 25 knowing about the image but not taking any part in the

11:12:25:15 1 image; right?

2 A. Correct.

3 Q. And you would agree with me that he came

4 in and met once he had a lawyer; right?

11:12:35:19 5 A. Yes.

6 Q. Met with law enforcement. Was that

7 subject to a proffer agreement?

8 A. No.

9 Q. He was not promised anything, didn't sign

11:12:47:17 10 anything, you're being granted any type of immunity

11 whatsoever during that interaction?

12 A. I don't think so, no.

13 Q. Okay. Were you present for that

14 interview?

11:12:55:08 15 A. I was.

16 Q. Okay. And oddly enough, the only thing

17 that he admitted to doing was snapping pictures,

18 screenshots of child pornography on his other device?

19 A. He admitted to taking a picture of the

11:13:17:15 20 images that were sent to him by Ms. Johnson. And he

21 admitted to assisting and taking that laptop and

22 hiding it in the attic.

23 Q. Okay. And purportedly is scared of

24 Ms. Johnson retaliating against him?

11:13:39:15 25 A. You cut out there.

11:13:40:24 1 Q. He's -- purportedly he's scared of
2 Ms. Johnson, physically scared of her?

3 A. Yes, sir.

4 Q. Were you made aware that this gentleman
11:13:50:24 5 remained in contact with Ms. Johnson past January 15
6 and beyond the date in which he would have met with
7 law enforcement and told you he was scared?

8 A. I haven't talked with him since then.

9 Q. And was even texting back and forth with
11:14:10:16 10 Ms. Johnson?

11 A. I don't know that.

12 Q. And that -- if that were the case, that
13 would definitely fly in the face of his claim that he
14 was somehow scared, physically scared of Ms. Johnson?

11:14:22:12 15 A. Not necessarily.

16 Q. Okay. So --

17 A. I could see -- I could see an individual
18 reaching out trying to maintain some type of civil,
19 cordial communication if they were -- if they
11:14:38:01 20 potentially felt in fear of somebody. I could see
21 someone doing that and not just cutting off contact.

22 Q. Okay. And continuing to want to be in
23 the relationship with them and say how that they love
24 them, things of that nature?

11:14:54:19 25 A. That would -- that would probably -- I

11:14:58:10 1 don't think that's consistent, but I think -- I can't
2 speak to what somebody else is thinking when it comes
3 to that.

4 Q. And I want to be clear about this
11:15:08:13 5 Exhibit 1 that was entered during your testimony. Is
6 that the actual chat as it would have -- as it would
7 have populated in the chat room or is that some sort
8 of document, summary document that was created for the
9 purpose of testimony?

11:15:27:18 10 A. Those were the communications involving
11 Female4CP, 2ndFemale4CP and 4thFemale4CP. So that
12 would not include every communication of everyone in
13 that particular chat room.

14 Q. And you can't say who -- you don't have
11:15:54:07 15 direct knowledge of who Female4CP is; correct?

16 A. Not directly, no.

17 Q. All right. And that could just -- as far
18 as you know, that could just as soon be Brandon
19 Cavanaugh signing in under some type of a different
11:16:10:28 20 screen name, could it not?

21 A. No, I don't think so.

22 Q. You don't think so. Do you have some
23 sort of -- based on all your training and experience,
24 do you have some sort of bias for Mr. Cavanaugh?

11:16:22:00 25 A. No, I do not. What I would say is is

11:16:24:24 1 that these pictures were taken on a -- at a time when
2 Mr. Cavanaugh was not in the home.

3 Q. And how do you know that?

4 A. Well, we have -- she told us that. I
11:16:41:03 5 think Ms. Johnson made that statement, he was not here
6 during that time. And she had made mention that there
7 may have been some other children at some point in the
8 home. And so we did some interviews with DCS of other
9 children that had been at the house for some party,
11:17:04:20 10 and -- sometime prior to December. I think it was
11 around Halloween they may have come over.

12 Q. Okay.

13 THE COURT: Wait a minute. But were you
14 able to identify exactly when those pictures were
11:22:48:29 15 taken?

16 THE WITNESS: I think the EXIF data on
17 that picture was 12-30-2021.

18 THE COURT: And then did you corroborate
19 that that gentleman was not at the home at that time?

11:23:01:26 20 THE WITNESS: Ms. Johnson stated that.
21 And he has stated that. And his parents indicated he
22 was at their house putting together a bed --

23 THE COURT: Okay.

24 THE WITNESS: -- that he had ordered for
11:23:11:28 25 the father.

11:23:12:20 1 THE COURT: Okay. That's -- and that's
2 the extent of your corroboration?
3 THE WITNESS: Yes.
4 THE COURT: Okay. Go ahead, Mr. Evans.
11:23:18:27 5 MR. EVANS: Thank you, Your Honor.
6 BY MR. EVANS:
7 Q. Did you ever -- you talked about some
8 chats that indicated sexual contact with the minor
9 victim. Did you personally interview the alleged
11:23:39:25 10 victim, Ms. Johnson's oldest daughter, in relation to
11 that?
12 A. I did not.
13 Q. Are you aware of a forensic interview
14 taking place that you have reviewed?
11:23:51:12 15 A. Yes.
16 Q. And just to be clear, the minor child
17 that's the subject of these pictures purportedly did
18 not say she had ever been physically sexually abused;
19 correct?
11:24:08:00 20 A. Correct.
21 Q. And during that interview she even said
22 she had not been photographed?
23 A. During the initial -- during the initial
24 forensic interview, yes.
11:24:20:13 25 Q. And --

11:24:21:27 1 A. However, the next day following that
2 (indiscernible).

3 Q. All right. And then during that
4 interview -- and by the way, the search warrant -- the
11:24:29:19 5 children were removed on, what, January 13 during the
6 initial search warrant; correct?

7 A. Yeah. I keep thinking it's the 14th, but
8 you may be right. I'm not really good with dates
9 sometimes.

11:24:41:24 10 Q. Well, and, look, I may be misremembering
11 it as well as the 13th --

12 A. They were removed that night, yes.

13 Q. Okay. And so the time she was
14 interviewed she was not in the mother's custody;
11:24:52:22 15 correct?

16 A. No, she was not.

17 Q. And during that interview she even said
18 that she had not -- she wasn't aware of any pictures
19 being taken of her when she was in any state of
11:25:02:23 20 undress; correct?

21 A. That's what I remember, yes.

22 Q. And the pictures that you have described
23 would indicate that the child being depicted would
24 have been aware of someone taking their picture;
11:25:20:24 25 correct?

11:25:21:09

1 A. Definitely.

2 Q. And then I think you stated at some point
3 that the child had said to somebody that her mother
4 may have accidentally taken pictures?

11:25:33:15

5 A. Yes.

6 Q. Is that -- was that part of a future
7 forensic interview or where did you get that
8 information?

11:25:44:02

9 A. I believe that information came from
10 Jeremy Buchanan and Mikel Richert.

11 Q. Okay. Now, Jeremy Buchanan is
12 Ms. Johnson's ex-husband; correct?

13 A. I believe so, yes.

11:26:01:10

14 Q. And Mikel Richert is Ms. Johnson's
15 sister; correct?

16 A. Correct.

11:26:17:14

17 Q. And this indicates to you, at least, I
18 would imagine that those individuals were continuing
19 to talk to this child about these allegations outside
20 of the confines of those forensic interviews; right?

21 A. No. I -- it could be that. Or it could
22 be the child was self-disclose -- was just disclosing.
23 And based on what I have been told by people that have
24 had custody of her, that the more stable the
25 environment, she settles down and she's able to

11:26:46:15 1 disclose and carry on a basically normal childhood.
2 It's when these interruptions occur and these
3 unauthorized communications occur, these secretive
4 communications that she acts out is my understanding.

11:27:06:13 5 Q. And just to be clear, as of today as far
6 as you know, she is still visiting with Adelyn -- or
7 allowed under the order to visit with Adelyn, her
8 oldest child via Zoom; correct?

9 A. Correct.

11:27:24:24 10 Q. And you've made the Department of
11 Children's Services aware of these interactions to the
12 extent you know them?

13 A. Yes. And they've made us aware of
14 interactions that they become aware of.

11:27:37:06 15 Q. Okay. And she's -- and Ms. Johnson
16 continues to enjoy in-person visits with her youngest
17 two children supervised weekly; is that correct?

18 A. Correct. I believe at this Ames Brown's
19 residence.

11:27:58:09 20 Q. Just so we're clear, all of this --
21 these -- these infractions, as you call them, of the
22 juvenile court order, those have been known to DCS
23 prior to today; right?

24 A. Some of them, yes. I can't say that they
11:28:13:27 25 know of all. I don't know that there's any more than

11:28:17:03

1 they know of, but what they know of, yes.

2 Q. Okay. Now, talking about Mr. Cavanaugh,
3 Mr. Cavanaugh, you talked about, admittedly lied to
4 you guys originally; correct?

11:29:30:25

5 A. Correct.

6 Q. And if I understand it, he's the one who
7 told you where the laptop was that contained the child
8 pornography?

9 A. Correct.

11:29:47:04

10 Q. And he even went into -- according to
11 him, back into the house where -- this hiding spot in
12 the rafters and handled the laptop right before you
13 issued your search warrant to make sure it was still
14 there?

11:30:06:25

15 A. I don't know that --

16 Q. And --

17 MS. MORRISON: Your Honor, I'd ask that
18 counsel let the witness finish answering so we have a
19 clear record.

11:30:18:26

20 THE COURT: Yeah, I think that's what he
21 was doing. Investigator, you can finish answering
22 your -- that question.

23 THE WITNESS: I don't know that -- thank
24 you, Judge. I don't know that. I believe, if my

11:30:29:17

25 memory serves, that Mr. Cavanaugh had mentioned going

11:30:33:12 1 back to check on that, and I believe I told him not to
2 do that, let's just -- let us apply for the warrant
3 and go try to find it. If it's there, it's there. If
4 it's not, it's not. And that's -- that's my
11:30:50:03 5 recollection.

6 BY MR. EVANS:

7 Q. But if one of your reports or
8 applications indicates that he did that anyway, you
9 wouldn't have any -- you wouldn't dispute that?

11:31:05:05 10 A. No, I wouldn't dispute it. It just would
11 not be my ordinary practice to ask him to do that.

12 Q. Now, you testified that there's no
13 indication that Mr. Cavanaugh used that particular
14 laptop. Do you remember saying that?

11:31:27:19 15 A. I don't think I said that he didn't use
16 it. I think that I indicated he's not the primary
17 user of that laptop. There is some information on
18 there that pertains to Mr. Cavanaugh, but it does not
19 appear that he is the primary user.

11:31:43:21 20 That computer was reset, and the folder
21 structure that we have recovered indicates that that
22 computer, prior to January the 15th, was under the
23 user Justi, J-u-s-t-i, was the primary user of that
24 computer before Windows was reinstalled.

11:32:08:22 25 Q. And you just mean that that's the -- the

11:32:10:25 1 overall user, when you log in, that's the user, like
2 you go into a Windows computer, it just says --

3 A. I would have to go back and check, but I
4 believe that is the computer name and user. I'd have
11:32:28:15 5 to go back and look at that. We've got that
6 information, I just don't have it -- I can't recall
7 it.

8 Q. All right. And just to be clear,
9 Mr. Cavanaugh is not named in either of the counts of
11:32:47:01 10 the indictment related to the production or
11 distribution of child pornography?

12 A. He is not.

13 Q. How convenient. And then he's -- but he
14 is named in Count Three for the concealed and/or
11:33:01:02 15 destruction of evidence; correct?

16 A. Correct.

17 Q. And because this laptop that we're
18 talking about that was hidden, is that the one that
19 you said they took or he claimed they took to
11:33:10:18 20 McDonald's and he helped erase or reset?

21 A. I don't know if they took that laptop to
22 the McDonald's. It indicated to me, if I remember
23 correctly, that it had connected to that McDonald's
24 wi-fi. I could be incorrect. I could be thinking of
11:33:31:07 25 another device that connected, but in either event,

11:33:34:16 1 they took a device and I believe it to be his iPad, at
2 least his iPad from Serve Pro to the McDonald's to
3 access the Internet and access and destroy some online
4 accounts. And there was some searches recovered from
11:33:53:10 5 I think maybe the phone and possibly the laptop
6 regarding what do I do when I lose access to my iCloud
7 account, how to delete my iCloud account, those type
8 of searches.

9 Q. And I want to make sure I caught what you
11:34:13:03 10 just said. So Mr. Cavanaugh's actual -- his iPad was
11 erased; correct?

12 A. No, I don't think so.

13 Q. I thought you said -- I may have
14 misunderstood you. There was an iPad for
11:34:28:13 15 Mr. Cavanaugh?

16 A. Correct. So I think that iPad was his
17 work iPad. So he had indicated that Ms. Johnson told
18 him, we are going to go to Serve Pro, get your iPad
19 and then delete online accounts. We took, I think,
11:34:46:20 20 just about every device they had except for that
21 laptop that had been hidden. So there was no other
22 way, I think, for them at that time to connect to the
23 Internet.

24 Q. Okay. But that iPad -- I just want to
11:35:01:00 25 talk about it just to make sure I understand it right.

11:35:03:21 1 This iPad for Mr. Cavanaugh, he admitted to erasing
2 online accounts from his iPad?

3 A. He didn't admit that. He said she
4 utilized that.

11:35:15:03 5 Q. Oh, so she -- okay. So she was utilizing
6 his iPad --

7 A. They went together to Serve Pro and
8 gathered that iPad.

9 Q. Okay. Mr. Cavanaugh purportedly had
11:37:42:25 10 nothing -- nothing whatsoever to hide. He engaged in
11 just helping conceal this evidence on these iPads and
12 various devices; right?

13 A. He knew about it.

14 MR. EVANS: One moment, Your Honor.

11:37:59:08 15 BY MR. EVANS:

16 Q. You would agree with me Mr. Cavanaugh has
17 already received a benefit in exchange for the
18 information that he provided to law enforcement;
19 right?

11:38:39:13 20 MS. MORRISON: Your Honor, I'm going to
21 object. I'm not sure how this goes to dangerousness
22 or risk of flight as to Ms. Johnson.

23 THE COURT: What do you say, Mr. Evans?

24 MR. EVANS: Your Honor, this is me
11:38:50:05 25 wrapping up, but it goes to that because they're

11:38:53:00 1 asking this Court to rely on the credibility of
2 information relayed to law enforcement by
3 Mr. Cavanaugh. And with his credibility in question,
4 I think it's very relevant and this Court needs to be
11:39:07:13 5 able to properly evaluate that credibility by knowing
6 what exactly he had at stake and what benefits he --
7 you know, biases he may have had not to be honest with
8 them.
9 THE COURT: I'll overrule the objection.
11:39:22:20 10 You can answer that question. I think that will be
11 the end of it.
12 THE WITNESS: Could you ask that question
13 again, please?
14 BY MR. EVANS:
11:39:30:07 15 Q. Sure. Would you agree with me that
16 Mr. Cavanaugh has already received a benefit of the
17 government in regard to his coming in and speaking
18 and, quote/unquote, cooperating?
19 A. I'm not going to agree with that. He was
11:39:44:00 20 charged. He's been charged. Now, he hasn't been
21 charged with the same offenses that Ms. Johnson, but
22 he's been charged.
23 Q. He hadn't been charged with production of
24 child pornography; right?
11:39:56:18 25 A. Correct.

11:39:57:21

1

Q. Or aiding and abetting it; correct?

2

A. Correct.

3

4

Q. Hadn't been charged with distribution of
child pornography; correct?

11:40:04:17

5

A. Correct.

6

Q. Or aiding and abetting it?

7

A. Correct.

8

9

Q. Or any kind of conspiracy to do either
one; correct?

11:40:13:06

10

A. Correct.

11

MR. EVANS: Those are my questions.

12

13

THE COURT: I need to ask a couple
questions, Investigator. The document that was
entered at -- the Government's Exhibit No. 1, which is
the contents or portion of the contents of the chat,
you-all had that prior to the execution of the search
warrant in early January 2015; right (sic)?

11:40:23:18

15

16

17

18

THE WITNESS: Yes, sir.

19

11:40:36:29

20

21

THE COURT: And when was it that you
executed the second search warrant that resulted in
getting that second -- that other laptop?

22

23

THE WITNESS: That might have been a week
and a half later.

24

11:40:49:19

25

THE COURT: Okay. So we're still talking
about January 2021; right?

11:40:52:00

1 THE WITNESS: Yes, sir.

2 THE COURT: And then in terms of the
3 analysis of that computer and the downloads, when
4 did -- you testified about some of the contents that
11:41:01:20 5 was on that computer. When did you receive that
6 information?

7 THE WITNESS: That's still been ongoing.

8 THE COURT: Well, you testified that one
9 of the things you found on there was some child
11:41:12:26 10 pornography. When did you find that?

11 THE WITNESS: I'd say that'd be about six
12 months out.

13 THE COURT: Okay. All right. So you
14 think June of 2021 is when you had that?

11:41:23:09

15 THE WITNESS: Yes.

16 THE COURT: Okay. And what evidence have
17 you recovered from the laptops or other physical
18 evidence related to Counts One and Two of this
19 indictment since June of 2021?

11:41:47:20

20 THE WITNESS: Since June of 2021,
21 probably nothing else related to those two counts.

22 THE COURT: Okay. All right. Thank you.
23 Ms. Morrison, any redirect?

24 MS. MORRISON: Just briefly, Your Honor.

25

REDIRECT EXAMINATION

BY MS. MORRISON:

Q. Investigator Evans, you testified about some disclosures that the minor victim made about the defendant perhaps inadvertently photographing her. Did the minor victim make any statements about Mr. Cavanaugh being involved in the production of those photographs?

A. No, ma'am.

THE COURT: Well, not that you're aware of; right?

THE WITNESS: No, sir.

THE COURT: Okay. Go ahead, Ms. Morrison.

BY MS. MORRISON:

Q. Investigator Evans, based on your contact with DCS and other individuals connected to this case, do you expect that if any such disclosures had taken place, you would have been notified of them?

A. Yes, ma'am.

Q. Do you have any information during the course of your investigation that suggests that Mr. Cavanaugh played any role in the production or distribution of these images?

A. No, not in the production. He became

11:43:09:11

1 aware of it, though, after the fact.

2 Q. Any suggestion from the forensic
3 examinations that he was downloading child
4 pornography?

11:43:20:07

5 A. No.

6 MS. MORRISON: I don't have any further
7 questions, Your Honor.

8 THE COURT: All right. Thank you,
9 Investigator Evans. Appreciate your testimony.

11:43:27:13

10 You're free to stay if you'd like, but you can leave
11 if you need to take care of other matters.

12 *****WITNESS EXCUSED*****

13 THE COURT: Ms. Morrison, do you have any
14 other proof you want to put on?

11:43:39:14

15 MS. MORRISON: No, Your Honor.

16 THE COURT: Mr. Evans, you have any
17 rebuttal evidence you want to put on?

18 MR. EVANS: No, Your Honor.

19 THE COURT: All right. Y'all wish to be
20 heard?

11:43:46:05

21 MR. EVANS: Yes, Your Honor.

22 THE COURT: Ms. Morrison, does the
23 government want to be heard?

24 MS. MORRISON: Yes, Your Honor.

11:43:53:09

25 THE COURT: All right. I'll hear from

11:43:54:17

1 you first.

11:45:03:24

2 MS. MORRISON: Your Honor, obviously the
3 Court's already found that the defense rebutted the
4 presumption, but I think it's clear from the testimony
5 while the defendant may not be a flight risk, there's
6 no suggestion that she's fled the area, I would remind
7 the Court that if she's convicted of Count One, she
8 faces a mandatory minimum sentence of 15 years and the
9 possibility of up to a life sentence. And the
10 requirement of Sex Offender Registry would obviously
11 have tremendous impact on her life.

11:45:20:01

11:45:38:22

11:45:55:05

11:46:12:08

12 I think there is a question about danger
13 to the community and specifically danger to this
14 particular victim. The Court's heard testimony that
15 there is an order in place with this particular minor
16 victim. That order has been violated. For whatever
17 reason the visitation has been continued. Although, I
18 would proffer to the Court, there's some suggestion
19 that at certain points in time there was movement to
20 curtail that visitation or limit it or even stop it.
21 But clearly as recently as April the defendant was
22 allowed to have Zoom visitation the minor victim.
23 But it's concerning that in spite of the
24 fact that the defendant knew the investigation was
25 ongoing, hired counsel, there was an ongoing juvenile

11:46:16:24 1 court case, she continued to violate the court order,
2 which suggests to me that even if this Court orders
3 conditions, she's not likely to follow them.

4 It's troubling, certainly, in the content
11:46:29:10 5 of the Exhibit 1 which is the -- you know, the
6 statements we believe the defendant made within this
7 chat room in connection with the publication of these
8 particular images. There's reference to sexual
9 contact with the minor victim. There's reference to
11:46:45:22 10 offering her minor son up for a sexual act and being
11 willing to hold him down. And those kinds of
12 statements are obviously very troubling.

13 We've heard testimony from Ms. McGee and
14 we have the Pretrial Services Report that indicates
11:47:00:25 15 that the defendant does online work. Ms. McGee does
16 online work, and so I don't know that the Court could
17 reasonably craft conditions that could ensure that she
18 doesn't have any connection to the Internet, which was
19 obviously one of the means that she used to facilitate
11:47:17:12 20 this crime.

21 I'd ask the Court not to release her. I
22 don't believe that there are conditions upon which she
23 can be safely released. I can't speak to the delay
24 between the time of the execution of the search
11:47:27:17 25 warrants and indictment. Certainly it's not my case.

11:47:30:15 1 You know, I understand we typically proceed in
2 different manners in this district, but I can't speak
3 to that. I don't know.

4 Obviously there's been some delays
11:47:39:24 5 because of the deletion of the evidence and trying to
6 recover it. But certainly in a case where we have
7 numerous devices that are being examined, delay is not
8 necessarily unexpected. So I'd ask the Court to
9 detain the defendant.

11:47:54:29 10 THE COURT: All right. Thank you,
11 Ms. Morrison.

12 Mr. Evans, I'll hear from you.

13 MR. EVANS: Thank you, Your Honor.

14 It would be the defendant's position in
11:48:04:28 15 this case that there is not clear and convincing
16 evidence that she poses a danger to the community. I
17 think the government's conceded that she is not a
18 flight risk at this time, so I won't address that
19 issue.

11:48:16:03 20 But I will address this on dangerousness.
21 First and foremost, the government had the discretion
22 from day one to pick her up and put her in custody.
23 January 13, 2021. They knew of these chats that they
24 purport to be her chats at that time. They knew of
11:48:41:12 25 these images that they purport she took and uploaded

11:48:44:10 1 at that time. They had every -- all the discretion in
2 the world to charge her either in state court or
3 federal court, affidavit of complaint, criminal
4 complaint, and argue at that time she was a danger.

11:48:57:18 5 For them to come in at this late date and
6 say that those facts are a basis for danger in and of
7 themselves is absurd. Because they themselves didn't
8 believe it. Had they believed her to be a danger
9 then, they would have acted then. There is no
11:49:20:24 10 question.

11 I don't believe for a minute that the
12 federal government and its agents, through Task Force
13 or otherwise, would have allowed someone that they
14 believed to be a danger to remain uncharged and out of
11:49:34:22 15 custody. So by their own actions I believe that they
16 should be estopped, essentially, from arguing danger
17 based on those facts here today.

18 Now, the additional fact argued by
19 Ms. Morrison today with dangerous -- kind of
11:49:52:23 20 dangerousness and this kind of risk of flight that she
21 put on at the end was now she knows she's facing a
22 15-year mandatory minimum and that would be some
23 incentive to act in some -- in any certain way. What
24 the proof has shown today is that she's had counsel
11:50:10:06 25 since January of '21, has been present for court --

11:50:17:00 1 many court proceedings in juvenile court in Davidson
2 County -- or, excuse me, in Knox County, rather, has
3 engaged in that process, has defended herself in that
4 process, was available to federal law enforcement as
11:50:32:11 5 well.
6
7 And this Court can be assured that based
8 on the nature of the allegations of this case that she
9 was -- she's been aware of the mandatory minimum
10 potential punishment for production of child
11 pornography for an extended period of time because
12 (indiscernible).
13
14 So this idea that that's a new
15 development as of today is -- again, should not be
16 credited by this Court. And this Court can fashion
17 conditions of release that can reasonably assure the
18 safety of the community and reappearance in court.
19
20 Before I go into talking about
21 conditions, I want to say this: As it relates to
22 dangerousness, the juvenile court order has been in
23 place this entire time. Any alleged violations or
24 failure to abide by that court order could have been
25 pursued in that court for contempt or otherwise and it
11:51:27:06 has not. They have attempted to modify those
26 conditions, and those conditions of contact with the
11:51:47:16 27 children have been modified over time, which

11:51:49:19 1 Your Honor has heard testimony now result in Zoom-only
2 contact with the oldest child, Adelyn, with the mother
3 that is supervised and continued supervised weekly
4 contact with the two minor children that is
11:52:07:25 5 supervised.

6 And, again, if there was a concern of
7 danger to this child, that court, who is
8 specifically -- specifically has the mandate to
9 protect children, would have done so further and they
11:52:31:15 10 have not. So I think this Court can fashion an order
11 as it relates to that and say that contact ongoing
12 with the children will be subject to or pursuant to
13 any juvenile court orders. And that will reasonably
14 assure the safety of the community and specifically
11:52:53:26 15 the children in this case.

16 Your Honor, as it relates to some of this
17 information on strength of the evidence, I do want to
18 briefly talk about that. One thing that is
19 particularly telling about this case is the government
11:53:10:06 20 has, I think, somewhat conveniently chosen Ms. Johnson
21 to be the culprit in this case without any forensic
22 evidence that directly links her to it when there was
23 a male in the house unrelated to this child that had
24 equal access to these digital devices and to this
11:53:33:10 25 child. And they have, for whatever reason, gone

11:53:37:29 1 against all the statistical information and the
2 experience that Mr. Evans has in this regard. They
3 (indiscernible) it's all in its face and on its ear
4 and decided that for some reason Mr. Cavanaugh didn't
11:53:51:20 5 have anything to do with any of it except for the
6 destruction of this evidence.
7 But why in the world would he describe
8 evidence that he had no hand in making? Why would he
9 snap pictures of child pornography on his device to
11:54:04:17 10 somehow have a record because he was concerned for
11 these children when there's no indication that he took
12 any steps to report this conduct to law enforcement?
13 So I think the Court, when it's
14 evaluating the strength of the evidence as it relates
11:54:21:18 15 to dangerousness -- and I understand that's the
16 obligation of the Court at this -- when it's
17 evaluating the strength of the evidence, it is a
18 situation where I think the Court can take that into
19 consideration.
11:54:35:28 20 Now, the Court has heard from Ms. Biane
21 McGee. Your Honor, it's our position that she is an
22 appropriate third-party custodian. She has testified
23 that -- that Ms. Johnson can either live with her at
24 her residence or Ms. Johnson can live at the residence
11:54:53:25 25 that she owns, the condo that she owns. One of two

11:54:58:12 1 things can happen. And this Court can put down any --
2 and we are happy for the Court to put any restrictions
3 whatsoever that the Court deems appropriate. The
4 Court can do ankle monitoring to make sure that the --
11:55:11:19 5 that Ms. Johnson's whereabouts are always known by
6 Pretrial Services. This Court can do house arrest or
7 any version of curfew that it deems appropriate.

8 As it relates to digital devices, this
9 Court can either, A, order that she not be allowed
11:55:26:18 10 access to any digital devices. And if she stays in
11 this condominium that is six miles from Ms. Biane
12 McGee's house, Ms. McGee has indicated that she can --
13 that there would be no Internet access to that house.
14 And the Court can order that she not have access to
11:55:45:26 15 digital devices, period.

16 Contrarily to that or in the alternative,
17 rather, this Court can also fashion an order that
18 allows Ms. Johnson access to digital devices under
19 restrictions. She can use a digital device and have
11:56:08:09 20 Internet access as it relates to her work. And the
21 Court can do that, that she can only use it for work
22 purposes.

23 There's been no proof before this Court
24 that there's been any continued -- alleged continued
11:56:25:00 25 interaction with child pornography or dark web or any

11:56:28:10 1 of those things since the January 13 -- or January 13,
2 2021, search warrant and the preceding search warrant.

3 This Court could also -- it's my
4 understanding that Pretrial Services has the ability
11:56:45:18 5 to put on a monitoring device, a monitoring device on
6 a computer, if she has access to it, that will
7 basically keystroke everything that she does to where
8 they can actively monitor what everything that she
9 does on that device. And I know that my client would
11:57:04:20 10 be more than happy to have any software of the like
11 placed on any device she has. I would ask that the
12 Court allow her to have limited access.

13 I can tell you this: The government
14 wasn't all that concerned about her access to digital
11:57:21:15 15 devices and the Internet between January of '21 and
16 today or the date of the motion to detain because they
17 allowed her out without any oversight whatsoever, with
18 unbridled access to digital devices and the Internet.
19 Again, I think they should ultimately be almost
11:57:44:04 20 estopped from making that argument today.

21 So I would ask the Court to put whatever
22 conditions it sees fit, because there is a condition
23 or combination of conditions that can reasonably
24 assure this Court that she is not a flight risk and
11:57:58:09 25 she is not a danger. We'd ask the Court to release

11:58:01:29 1 her to Ms. Biane McGee under any conditions that the
2 Court sees fit that are necessary to assure the Court
3 that those two items are sufficiently covered for this
4 Court. Thank you.

11:58:20:25 5 THE COURT: All right, thank you.

6 Ms. Morrison, I'll give you the last word
7 if you want it.

8 MS. MORRISON: Yes, Your Honor.

9 I find it interesting that defense
11:58:28:19 10 counsel is arguing that we should have charged
11 Mr. Cavanaugh. The government has an ethical
12 obligation to charge only those individuals we believe
13 actually commit crimes, and Mr. Cavanaugh has been
14 charged with crimes we believe he committed.

11:58:42:28 15 There is no indication that he was at the
16 residence when these images were created, and that's
17 been by the statements of the defendant herself,
18 Mr. Cavanaugh's family members, other children who
19 were at the residence and the absence of any
11:58:58:18 20 disclosures by the minor victim herself.

21 Investigator Evans testified that there
22 were no indications that the defendant was accessing
23 images of child pornography on his devices. In fact,
24 the only two images that were found were the two that
11:59:13:18 25 he said he Snapchated. So I think we took the right

11:59:18:07 1 actions in this case by not charging this individual.

2 I don't think there are conditions that

3 this defendant can be released on. Certainly the

4 Court can consider her lack of compliance with the

11:59:27:27 5 juvenile court orders in determining whether or not

6 she can be safely released on conditions and whether

7 or not she'll comply with conditions. And her past

8 history suggests that she won't.

9 THE COURT: Thank you.

11:59:40:13 10 All right. First of all, I want to thank

11 the lawyers. I appreciate your efforts in this case.

12 Good advocacy is important to the Court and helpful in

13 reaching difficult decisions that the Court has to

14 make on these issues.

11:59:53:21 15 Secondly, I want to take just a minute to

16 thank Ms. McGee for being here today, for her

17 testimony and for her willingness to serve as

18 third-party custodian to assist the Court in this

19 case. The Court also acknowledges the receipt of the

12:00:08:15 20 numerous letters and other materials that Mr. Evans

21 filed with the Court. I've reviewed those prior to

22 the hearing and I'm aware of the contents of those.

23 And I want to point out that, as I often

24 do when I see this, that there are a lot of people who

12:00:25:14 25 come before this Court who don't have anybody that's

12:00:27:19 1 willing to support them and stand behind them and be
2 there for them. So the Court acknowledges this and
3 gives it appropriate weight in this particular
4 instance. And I also specifically want to thank
12:00:40:21 5 Ms. McGee for her presence and willingness to serve
6 and testify to be here. It does mean a lot to me, and
7 I just want you to know that I appreciate you doing
8 that.

9 The Bail Reform Act ordinarily requires
12:00:52:25 10 that a defendant be released pending trial unless
11 there are no conditions that will reasonably assure
12 the appearance of the person at future court
13 proceedings and the safety of the community.

14 The Court has to consider a number of
12:01:02:29 15 factors, including the nature and circumstances of the
16 offense charged, the weight of the evidence against
17 the defendant, history and characteristics of the
18 defendant, and the nature and seriousness of the
19 danger posed by the defendant's release.

12:01:13:15 20 This default rule of release pending
21 trial is reversed and detention's presumed for certain
22 defendants accused of specific offenses such as are
23 present in this particular case. This imposes a
24 burden of production on the defendant to offer at
12:01:27:16 25 least some evidence that he or she does not pose a

12:01:30:14 1 risk of danger to the community or risk of flight.
2 The Court even when finding, as I have in this case,
3 that that slight burden of production is met, the
4 Court must nonetheless give some weight to the
12:01:42:09 5 presumption of detention because it reflects the
6 judgment of Congress that particular classes of
7 offenders should ordinarily be detained prior to
8 trial.
9 The Court is mindful of the fact that in
12:01:52:11 10 our society liberty is the norm and detention prior to
11 trial or without trial is the carefully limited
12 exception. And I'm also mindful of the tension
13 between the Bail Reform Act and the presumption of
14 innocence that applies to Ms. Johnson and all
12:02:05:22 15 individuals accused of offenses that come before the
16 Court.
17 As I noted, I did find that the defendant
18 has met her burden of production with regard to the
19 presumption and I will, nonetheless, give it the
12:02:19:15 20 appropriate weight that -- as I'm required to do in
21 this particular circumstance and all cases in which
22 the presumption applies and is met.
23 In terms of the evidence in this case,
24 I've heard the proof and am ready to rule.
12:02:38:00 25 Considering the issue of risk of flight in this

12:02:40:18 1 particular situation, I find it to be compelling
2 evidence that Ms. Johnson has been aware of the
3 potential of these charges, has had retained counsel
4 representing her in this matter since January of 2021.
12:02:55:11 5 This has been a significant period of time. I would
6 certainly expect Mr. Evans or any other criminal
7 defense lawyer to advise their client of potential
8 charges and potential sanctions and penalties if they
9 were to be convicted.

12:03:10:12 10 And so I think that it's significant as
11 to the issue of flight that Ms. Johnson has remained
12 present, has participated in the juvenile court
13 proceedings, has communicated to the US Attorney's
14 Office in the Eastern District through her counsel and
12:03:28:12 15 has generally been available and around and has not
16 apparently made any efforts at flight during this
17 particular time.

18 Likewise, I accept the representation
19 that there have been numerous proceedings in the
12:03:42:00 20 juvenile court matter and that she has appeared for
21 those matters, suggesting that she doesn't create a
22 serious or significant risk of nonappearance.

23 The Court does accept and acknowledge
24 that things are different now that she has been
12:03:57:00 25 charged with a real live federal indictment issued by

12:04:00:24

1 a grand jury, and that is significant. As
2 Ms. Morrison notes, there is a reality to that that
3 now comes into play that, based upon the actual
4 charges to have been brought, she does face a

12:04:12:15

5 potential mandatory minimum sentence, as well as a
6 significant lengthy sentence and also a term of
7 community supervision once she is released that would
8 also be onerous and significant.

12:04:28:11

9 So to the extent that there is any
10 appropriate weight to give this as it relates to the
11 issue of potential flight, the Court is satisfied that
12 there are conditions of release that would reasonably
13 assure her appearance at future court proceedings,
14 namely, as Mr. Evans suggests, the utilization of the
15 third-party custodian, location monitoring and the
16 like.

12:04:43:23

17 And I think that those -- those
18 conditions, given the historical record that I've
19 identified, are sufficient to reasonably assure her
20 appearance at future court proceedings and that she
21 would not flee the jurisdiction to avoid prosecution.
22 So I think that -- that issue can be dealt with
23 through conditions.

12:04:59:09

12:05:11:18

24 The more difficult issue in this case
25 relates to the issue of danger to the community. And

12:05:15:25 1 in this particular circumstance, there's no question
2 that offenses that involve child pornography and, more
3 importantly, the production of child pornography are
4 serious and significant offenses. They relate to the
12:05:30:09 5 most vulnerable or among the most vulnerable of our
6 community and our society and individuals that deserve
7 and need the production of the law and of the courts
8 in this particular circumstance.

9 The nature of the allegations in this
12:05:47:20 10 case and the nature of the circumstances surrounding
11 this charge are significant and serious. But that's
12 not the only condition that the Court has to consider,
13 obviously. Considering the weight of the evidence
14 against the defendant, it's important to note that
12:06:02:15 15 this goes to the weight of the evidence of
16 dangerousness as opposed to the weight of the evidence
17 of the defendant's guilt as to a particular charge
18 she's facing.

19 With respect to the history and
12:06:13:14 20 characteristics of this defendant, the Court's
21 reviewed the bond report in this case and specifically
22 notes the absence of any prior criminal convictions.
23 It appears that she has ties to the community. She
24 has long-standing ties as evidenced by the number of
12:06:30:05 25 letters that the Court received. There are a number

12:06:32:12 1 of people who are out there in the community who
2 support her and are willing to stand with her. She's
3 also maintained employment. And otherwise the history
4 and characteristics of her situation certainly do not
12:06:49:02 5 weigh in favor of detention.

6 But the Court has to also consider the
7 nature and seriousness of the danger posed by the
8 defendant's release in the particular case. In order
9 for a defendant to be detained, the Court must
12:07:02:06 10 identify an articulable threat posed by the defendant
11 to an individual or to the community. And that really
12 goes to the heart of the determination that the Court
13 must make.

14 In these cases generally, and in this
12:07:14:10 15 case specifically, it appears that there are several
16 potential dangers that could be posed by the
17 defendant's release, some of which were specifically
18 articulated, some of which were alluded to in the
19 questioning of witnesses in the case.

12:07:30:07 20 Certainly one issue relates to the danger
21 that the individual defendant could pose to the
22 alleged specific victim in this particular case.
23 While there was testimony regarding violations of the
24 juvenile court order regarding contact with the
12:07:52:04 25 defendant, there's no evidence that I have before me

12:07:55:24 1 in this year and a half that, roughly almost, that
2 this matter has been pending that the alleged victim
3 has been harmed in any way of a physical nature or of
4 a nature similar to what's alleged in the indictment
12:08:11:28 5 in this case by the defendant notwithstanding those
6 allegations of violating the Court's order.
7 It appears that the alleged violation of
8 the juvenile court orders relate really to two issues:
9 One that the defendant may attempt to tamper with or
12:08:30:05 10 interfere with witness testimony or otherwise
11 influence that testimony; and No. 2, as it relates, as
12 Ms. Morrison points out, to the Court's confidence in
13 the defendant's ability to comply with conditions of
14 release in this particular case.
12:08:44:18 15 But as far as actual danger to the
16 alleged victim in this case, notwithstanding those two
17 issues, I just haven't been presented with any
18 evidence that those contacts or anything else has
19 resulted in ongoing continuing danger to this victim.
12:09:02:18 20 A second area of danger that the Court
21 would have to be concerned about in a case like this
22 would be that the defendant could engage in similar
23 conduct as to other individuals who were similarly
24 vulnerable. The Court notes initially that to the
12:09:18:09 25 extent that these allegations relate to a family

12:09:22:03 1 member, the Court's heard the evidence that pretty
2 much immediately in January of 2021 these children
3 have been removed from the defendant and she has no
4 interaction with them other than that which is
12:09:37:16 5 authorized by the juvenile court orders. And,
6 therefore, they don't -- it doesn't appear that there
7 is an immediate risk of harm to them of a similar
8 nature to what's alleged in the indictment in this
9 particular case.

12:09:49:19 10 Likewise, as it relates to other
11 potential victims, the Court heard the testimony with
12 regard to access or availability to other minor
13 children, and, again, you know, we've got now almost a
14 year and a half of experience where those
12:10:09:24 15 circumstances could have existed. There's no evidence
16 that I've been presented with that there are any other
17 potential victims or any other concern or harm that's
18 come to any other potential victims during that period
19 of time. So that danger is one that seems to me that
12:10:25:19 20 can be addressed and is mitigated.

21 A third danger in cases like this involve
22 the possibility that an individual will continue to
23 receive child pornography or distribute child
24 pornography or otherwise use the Internet in order to
12:10:42:22 25 engage -- or any other source, I guess, in order to

12:10:45:16

1 engage in similar conduct related to pornographic
2 material.

12:10:56:14

3 And, again, the Court has to give
4 significant weight to the fact that the defendant in
5 this case has been at liberty since January of 2021
6 when these allegations were known and has had no type
7 of restriction on that access. Yet when I asked the
8 investigator specifically, there's been no evidence
9 that's been developed and certainly none presented to
10 this Court regarding Counts One and Two of the
11 indictment since June of 2021.

12:11:17:25

12:11:34:18

12 So, again, we have a significant period
13 of time where Ms. Johnson has not been subject to
14 those restrictions and yet there's no evidence of any
15 ongoing danger that exists in the community or to the
16 community or any individuals within the community.

12:19:11:01

12:19:28:07

17 The Court has considered all of this
18 evidence, and I believe that it's all significant.
19 It's significant as it relates to the potential danger
20 that -- the dangers that I can potentially identify as
21 I have to do and that have been provided and presented
22 to me by the government through its proof in this case
23 are dangers that, it appear to me, can be mitigated
24 against and can be addressed through conditions of
25 release.

12:19:30:18 1 I do, however, have concerns that I've
2 heard evidence that's not been really refuted or
3 disputed about alleged violations of the juvenile
4 court order with regard to contact with the -- with
12:19:51:03 5 the child in this particular case. And I do have
6 concerns that that would -- that, you know, that has
7 to enter into the equation in terms of my confidence
8 that the defendant could comply with conditions of
9 release that might be imposed.

12:20:08:22 10 Having considered all of that, I do find
11 that there are conditions of release that will
12 reasonably assure the safety of the community in this
13 particular matter. I do believe that those conditions
14 would be more onerous but for -- or are more onerous
12:20:29:27 15 than they would be but for the allegations that
16 Ms. Johnson has violated certain of the conditions and
17 orders of the juvenile court.

12:20:45:26 18 There's no evidence before me about why
19 the juvenile court's handled matters the way they have
20 or why they've done or not done what they've done, but
21 certainly the evidence before me is that
22 notwithstanding these alleged violations of that
23 Court's orders, it's continued to allow her to have
24 contact with these children and I think that that's
12:20:59:02 25 entitled to some significant weight on my part.

12:21:03:07

1 However, to be clear, I think that compliance with the
2 juvenile court orders will be an integral and
3 important part of my release order in this case. And
4 in the event that there are future violations of the

12:21:15:10

5 juvenile court orders, then not only will the juvenile
6 court decide to do whatever they want to do with it,
7 but this Court will take that very, very seriously and
8 address those issues moving forward.

12:21:30:02

9 So in light of all of that, the Court
10 will order that Ms. Johnson be released subject to the
11 following conditions: It will be the order of the
12 Court that Ms. Johnson be released; that she must not
13 violate any federal, state or law while on release.

12:21:43:14

14 She must advise the Court or Pretrial Services in
15 writing before making any changes of residence or
16 telephone number. She must appear in court as
17 required and, if convicted, must surrender as directed
18 to serve any sentence that might be imposed.

12:21:55:04

19 I am going to order that she be placed in
20 the custody of Ms. Biane McGee and I will order that
21 she reside at Ms. McGee's residence. We're not going
22 to stay at the condo. And the only people who are
23 going to be living there are Ms. McGee, her husband
24 and the defendant in this particular case.

12:22:14:02

25 She will be ordered to submit to

12:22:16:08 1 supervision by and report for supervision to the
2 Pretrial Services Office as directed. She is to
3 surrender any passport to the United States Probation
4 Office. And she is not to obtain a passport or other
12:22:33:01 5 international travel document.

6 She's to abide by the following
7 restrictions on personal association, residence and
8 travel, which will be limited to the Middle and
9 Eastern Districts of Tennessee unless preapproved by
12:22:44:06 10 Pretrial Services. She's to avoid all contact,
11 directly or indirectly, with any person who may be a
12 witness or victim in the investigation or prosecution
13 of this matter, except as authorized by the juvenile
14 court orders in this case.

12:22:56:25 15 She is to obtain medical or psychiatric
16 treatment as directed by the Pretrial Services if
17 deemed appropriate. She's not to possess a firearm,
18 destructive device or other dangerous weapon. She's
19 not to use alcohol excessively. She's not to use or
12:23:10:01 20 unlawfully possess a narcotic drug or other controlled
21 substance defined by the law unless prescribed by a
22 licensed medical practitioner.

23 She's to submit to testing for prohibited
24 substance if required by the Pretrial Services office
12:23:22:06 25 or supervising officer. That testing may be used with

12:23:23:24 1 random frequency and may include urine testing, the
2 swearing of a sweat patch, remote alcohol testing
3 system and/or any other form of prohibited substance
4 screening or testing and the defendant must not
12:23:34:00 5 obstruct, attempt to obstruct or tamper with the
6 efficiency and accuracy of prohibited substance
7 screening or testing.
8 She's to participate in a program of
9 inpatient or outpatient substance abuse therapy and
12:23:43:27 10 counseling if directed by Pretrial Services and she's
11 to participate in the following location restriction
12 program and comply with its requirements as directed.
13 I'm going to order that the defendant
14 participate in the program of home incarceration,
12:23:57:04 15 meaning that you'll be restricted to 24-hour-a-day
16 lockdown at the residence except for medical
17 necessities and court appearances or other activities
18 specifically approved by the Court, and this will
19 include meetings with counsel and also as authorized
12:24:11:29 20 by juvenile court orders in the underlying case.
21 You're to submit to location monitoring
22 as directed by Pretrial Services and comply with all
23 of the program requirements, and you must pay for all
24 or part of the cost of the program based on ability to
12:24:26:11 25 pay as determined by Pretrial Services. You're to

12:24:28:29 1 report as soon as possible, within 48 hours to the
2 Pretrial Services Office or supervising officer every
3 contact with a law enforcement personnel, including
4 arrest, questioning or traffic stops.

12:24:37:26 5 You're to permit Pretrial Services to
6 visit you at home or elsewhere at any time and allow
7 the officer to confiscate any contraband in plain
8 view. You're not to possess or access any device with
9 Internet access, except as authorized by any juvenile
12:24:52:04 10 court orders. This means that at the McGee residence
11 I will allow the McGees to utilize their electronic
12 devices and Internet service that is password
13 protected as testified to by Ms. McGee; however, the
14 defendant will not be allowed to have access to the
12:25:12:04 15 Internet or any devices that have Internet access to
16 them.

17 I need to also advise you of the
18 following penalties and sanctions: Violating any of
19 the foregoing conditions of release may result in the
12:25:25:27 20 immediate issuance of a warrant for your arrest or
21 revocation of your release, an order of detention and
22 a prosecution for contempt of court and could result
23 in imprisonment, a fine or both. While on release if
24 you commit a federal felony offense, the punishment is
12:25:36:16 25 an additional prison term of not more than ten years,

12:25:39:17 1 and for federal misdemeanor offense, the punishment is
2 an additional prison term of not more than one year.
3 This sentence will be consecutive, meaning in
4 addition, to any other sentence you receive.

12:25:47:25 5 It's a crime punishable by up to ten
6 years in prison, a \$250,000 fine or both to obstruct a
7 criminal investigation, tamper with a witness, victim
8 or informant, retaliate or attempt to retaliate
9 against a witness, victim or informant or intimidate
12:25:58:15 10 or attempt to intimidate a witness, victim, juror,
11 informant or officer of the Court. The penalties for
12 tampering, retaliation or intimidation are
13 significantly more serious if they involve a killing
14 or attempted killing.

12:26:08:05 15 If after release you knowingly fail to
16 appear as the conditions of release require or to
17 surrender to serve a sentence, you may be prosecuted
18 for failure to appear or surrender and an additional
19 punishment may be imposed. If you're convicted of an
12:26:18:06 20 offense punishable by a term of imprisonment of life
21 or imprisonment for a term of 15 years or more, you
22 can be fined not more than \$250,000, imprisoned for
23 not more than ten years or both. For a misdemeanor,
24 you'd be fined not more than \$100,000, imprisoned for
12:26:31:19 25 not more than two years or both, and any term of

12:26:34:25 1 imprisonment imposed for failure to appear or
2 surrender would be consecutive to any other sentence
3 you receive.
4 Now, I need to ask Ms. McGee some
12:26:43:24 5 questions. Is she still there, Mr. Evans?
6 MR. EVANS: She is, Your Honor.
7 THE COURT: All right.
8 MR. EVANS: I'll move the camera over to
9 her.
12:26:52:11 10 THE COURT: All right. Ms. McGee, did
11 you hear the conditions of release that I just
12 reviewed with Ms. Johnson?
13 MS. MCGEE: Yes, I did.
14 THE COURT: All right. And based upon
12:27:00:28 15 those conditions, namely the condition that wasn't
16 discussed at the hearing, which is I'm going to order
17 her to stay at your house 24/7, that means no -- she's
18 not going to be working, she's not going to be leaving
19 except for specifically approved activities, do you
12:27:18:02 20 still agree to supervise the defendant in this case?
21 MS. MCGEE: Yes, I do.
22 THE COURT: And will you use every effort
23 to assure the defendant's appearance at all court
24 proceedings?
12:27:29:05 25 MS. MCGEE: Yes, I will.

12:27:30:00 1 THE COURT: And notify the Court
2 immediately if she violates the condition of release
3 or is no longer in your custody?
4 MS. McGEE: Yes, I will.

12:27:36:24 5 THE COURT: And you understand that among
6 those conditions will be that she is not to be able to
7 access the Internet at your residence or not to have
8 any devices that allow her to access the Internet. Do
9 you understand that?

12:27:47:12 10 MS. McGEE: Yes, I do.

11 THE COURT: And is that going to present
12 you with any problems in terms of your obligation as
13 the third-party custodian?
14 MS. McGEE: No, it's not.

12:27:54:23 15 THE COURT: All right. Very good.
16 All right. Ms. Johnson, I need to ask
17 you some questions now. Do you acknowledge that
18 you're the defendant in this case and that you're
19 aware of the conditions of release that I just
20 reviewed with you, ma'am?
21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And do you promise to obey
23 all the conditions of release, to appear as directed
24 and surrender to serve any sentence that may be
25 imposed?

12:28:21:07

12:28:21:22

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THE DEFENDANT: Yes, Your Honor.

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THE COURT: And that you're aware of the penalties and sanctions set forth in the document that I just reviewed?

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12:28:27:08

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THE DEFENDANT: Yes, Your Honor.

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THE COURT: All right. This will be the order of the Court. And you'll be released following any processing required by the marshals and subject to these conditions.

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Upon your release you'll need to go to the probation office and meet with Pretrial Services for them to take care of the electronic monitoring and also to provide you with a copy of this order and review those conditions with you.

12:28:55:29

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I want to be very clear, Ms. Johnson, with you, that my expectation is that you will comply with each and every one of these conditions. They are all important and you need to comply with all of them.

12:29:11:20

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It will also be my expectation that you comply with each and every one of the conditions that are in effect by the juvenile court up in Knoxville. And if I find out that you violated any of those conditions or any information is brought to me, then you'll have to answer for that. And that will be the order of the

12:29:28:03

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Court.

12:29:30:17

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Ms. Morrison, is there anything further from the government's standpoint to do today?

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12:29:39:09

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MS. MORRISON: Yes, Your Honor. At this time I'd make an oral motion that the Court stay its release order. It's my understanding that the US Attorney's Office for the Eastern District of Tennessee intends to appeal to the District Court judge there, so I'd ask the Court to stay its order temporarily.

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12:29:51:03

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THE COURT: Do you have a specific request for a time period?

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12:30:00:07

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MS. MORRISON: Your Honor, if the Court -- okay, so today is Wednesday. If Court would stay its release order until at least Friday to give us time to get the appeal filed and hopefully set a hearing date.

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THE COURT: Mr. Evans?

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12:30:12:05

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MR. EVANS: Your Honor, we would absolutely object to staying this order. At this point in time Your Honor has heard the proof and has ruled. There's -- the government has put forth no proof whatsoever of any immediate risk for harm that she'd pose. Considering all of the information Your Honor's heard about my client's engagement in this case and the government's failure to act on their

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12:30:30:15

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12:30:36:06 1 perceived threat of harm any sooner than this, I -- I
2 don't understand why they would want to keep her in
3 custody for several more days when she's given no
4 indication that she's going to -- that she's a risk of
12:30:50:08 5 flight or a danger to the community, especially in
6 light of these conditions.

7 She will be under electronic monitoring,
8 she won't leave that courthouse without that
9 electronic monitoring, and she will not have access to
12:31:03:08 10 any Internet capability devices during that period of
11 time.

12 So, therefore, Your Honor, there's no
13 justification for staying this order. They still have
14 the ability to appeal without the stay, and she's
12:31:15:26 15 given every indication that she will actively engage
16 and respond to that appeal in the Eastern District and
17 engage in that case.

18 THE COURT: Okay. I'll stay the order
19 until 1 o'clock Central time tomorrow. We'll have
12:31:32:07 20 Ms. Johnson brought back to the courthouse tomorrow if
21 she is -- if there's no further action by the District
22 Court in the Eastern District by that time, she'll be
23 released from here. Otherwise that should be adequate
24 time for the government to do whatever it needs to do.
12:31:49:05 25 And that's what we'll do with this.

12:31:51:26

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MS. MORRISON: Thank you, Your Honor.

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THE COURT: All right. Thank you all

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very much. Appreciate everyone participating by video

4

conference today. We'll be in recess. Good luck to

12:31:58:19

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you, Ms. Johnson. Hope everything works out for you

6

okay.

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MR. EVANS: Thank you, Your Honor.

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*****END OF ELECTRONIC RECORDING*****

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REPORTER'S CERTIFICATE

I, Roxann Harkins, Official Court Reporter
for the United States District Court for the Middle
District of Tennessee, in Nashville, do hereby
certify:

That I transcribed from **electronic
recording** the proceedings held via video conference on
April 20, 2022, in the matter of UNITED STATES OF
AMERICA v. JUSTIS JOHNSON, Case No. 3:22-mj-4149 ;
that said proceedings in connection with the
hearing were reduced to typewritten form by me; and
that the foregoing transcript is a true and accurate
transcript of said proceedings.

This is the 17th day of June, 2022.

s/ Roxann Harkins_____
ROXANN HARKINS, RPR, CRR
Official Court Reporter